Pursuant to authority of section 41-1304.03, Arizona Revised Statutes, the attached sections are presented as blends. The blends are based on multiple amendment activity that occurred in the Fifty-fifth Legislature, First Regular Session.

For each blend, the publisher will be instructed to indicate in the source note each of the Laws 2021 chapter versions and to include a reviser's note to explain the blend.

Unless otherwise noted, the effective date of each of the following blends is September 29, 2021.

The following blend sections are included:

1. 4-101  Chs. 118 and 375 (Effective 10/1/21)
2. 4-203  Chs. 94, 375 and 397 (Effective 10/1/21)
3. 4-226  Chs. 94 and 375
4. 4-244  Chs. 94, 118 and 375 (Effective 10/1/21)
5. 6-1203 Chs. 263 and 356
6. 6-1207 Chs. 263 and 356
7. 6-1208 Chs. 263 and 356
8. 8-202  Chs. 222 and 240
9. 8-341  Chs. 240 and 288
10. 12-109 Chs. 138 and 403
11. 12-910 Chs. 281 and 316
12. 12-1809 Chs. 258 and 273
13. 13-905 Chs. 159 and 209
14. 13-2503 Chs. 361 and 390
15. 13-2916 Chs. 295 and 376
16. 15-203 Chs. 2, 119, 289, 404 and 435
17. 15-211 Chs. 285 and 434
18. 15-213.01 Chs. 39 and 404
19. 15-258 Chs. 147 and 285
20. 15-341 Chs. 260 and 404
21. 15-342 Chs. 404 and 437
<table>
<thead>
<tr>
<th>Number</th>
<th>Code</th>
<th>Pages</th>
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</thead>
<tbody>
<tr>
<td>22</td>
<td>15-393</td>
<td>Chs. 252 and 404</td>
</tr>
<tr>
<td>23</td>
<td>15-393</td>
<td>Chs. 252 and 416</td>
</tr>
<tr>
<td>24</td>
<td>15-393.01</td>
<td>Chs. 25, 404 and 416</td>
</tr>
<tr>
<td>25</td>
<td>15-424</td>
<td>Chs. 230 and 252</td>
</tr>
<tr>
<td>26</td>
<td>15-481</td>
<td>Chs. 184 and 404</td>
</tr>
<tr>
<td>27</td>
<td>15-701.01</td>
<td>Chs. 289 and 414</td>
</tr>
<tr>
<td>28</td>
<td>15-843</td>
<td>Chs. 119 and 373</td>
</tr>
<tr>
<td>29</td>
<td>15-901</td>
<td>Chs. 299 and 404</td>
</tr>
<tr>
<td>30</td>
<td>15-1021</td>
<td>Chs. 299 and 404</td>
</tr>
<tr>
<td>31</td>
<td>16-311</td>
<td>Chs. 194 and 230</td>
</tr>
<tr>
<td>32</td>
<td>16-312</td>
<td>Chs. 194, 230 and 318</td>
</tr>
<tr>
<td>33</td>
<td>16-341</td>
<td>Chs. 194 and 230</td>
</tr>
<tr>
<td>34</td>
<td>16-547</td>
<td>Chs. 332 and 343</td>
</tr>
<tr>
<td>35</td>
<td>16-550</td>
<td>Chs. 318 and 343</td>
</tr>
<tr>
<td>36</td>
<td>16-926</td>
<td>Chs. 96 and 154</td>
</tr>
<tr>
<td>37</td>
<td>16-1019</td>
<td>Chs. 221 and 284</td>
</tr>
<tr>
<td>38</td>
<td>19-124</td>
<td>Chs. 184 and 230</td>
</tr>
<tr>
<td>39</td>
<td>20-821</td>
<td>Chs. 24 and 357</td>
</tr>
<tr>
<td>40</td>
<td>23-901</td>
<td>Chs. 229 and 333</td>
</tr>
<tr>
<td>41</td>
<td>26-303</td>
<td>Chs. 348, 367 and 405</td>
</tr>
<tr>
<td>42</td>
<td>28-101</td>
<td>Chs. 117, 133 and 244</td>
</tr>
<tr>
<td>43</td>
<td>28-661</td>
<td>Chs. 117 and 304</td>
</tr>
<tr>
<td>44</td>
<td>28-662</td>
<td>Chs. 117 and 304</td>
</tr>
<tr>
<td>45</td>
<td>28-663</td>
<td>Chs. 117 and 304</td>
</tr>
<tr>
<td>46</td>
<td>28-664</td>
<td>Chs. 117 and 304</td>
</tr>
<tr>
<td>47</td>
<td>28-665</td>
<td>Chs. 117 and 304</td>
</tr>
<tr>
<td>48</td>
<td>28-693</td>
<td>Chs. 385 and 433</td>
</tr>
<tr>
<td>49</td>
<td>28-708</td>
<td>Chs. 385 and 433</td>
</tr>
<tr>
<td>50</td>
<td>28-907</td>
<td>Chs. 117 and 257</td>
</tr>
<tr>
<td>51</td>
<td>28-966</td>
<td>Chs. 117 and 244</td>
</tr>
<tr>
<td>52</td>
<td>28-1385</td>
<td>Chs. 170 and 385</td>
</tr>
<tr>
<td>53</td>
<td>28-1603</td>
<td>Chs. 189 and 288</td>
</tr>
<tr>
<td>54</td>
<td>28-2058</td>
<td>Chs. 267 and 335 (Effective 1/1/22)</td>
</tr>
<tr>
<td>55</td>
<td>28-2157</td>
<td>Chs. 117 and 244</td>
</tr>
<tr>
<td>58</td>
<td>28-3165</td>
<td>Chs. 329 and 374</td>
</tr>
<tr>
<td>59</td>
<td>28-3304</td>
<td>Chs. 170 and 385</td>
</tr>
<tr>
<td>60</td>
<td>28-3315</td>
<td>Chs. 117, 119 and 385</td>
</tr>
<tr>
<td>61</td>
<td>28-3511</td>
<td>Chs. 413 and 433</td>
</tr>
<tr>
<td>62</td>
<td>28-3512</td>
<td>Chs. 413 and 433</td>
</tr>
<tr>
<td>63</td>
<td>28-3514</td>
<td>Chs. 413 and 433</td>
</tr>
<tr>
<td>64</td>
<td>28-6501</td>
<td>Chs. 136, 143, 153, 175, 191, 215, 253, 255, 270 and 371</td>
</tr>
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</tr>
<tr>
<td>67.</td>
<td>32-1401</td>
<td>Chs. 61 and 320</td>
</tr>
<tr>
<td>68.</td>
<td>32-1901</td>
<td>Chs. 61, 226 and 278</td>
</tr>
<tr>
<td>69.</td>
<td>32-1901.01</td>
<td>Chs. 226 and 320</td>
</tr>
<tr>
<td>70.</td>
<td>32-1904</td>
<td>Chs. 226 and 247</td>
</tr>
<tr>
<td>71.</td>
<td>32-2071.01</td>
<td>Chs. 210 and 237</td>
</tr>
<tr>
<td>72.</td>
<td>32-3430</td>
<td>Chs. 301 and 323 <em>(Effective 1/1/22)</em></td>
</tr>
<tr>
<td>73.</td>
<td>35-454</td>
<td>Chs. 131 and 184</td>
</tr>
<tr>
<td>74.</td>
<td>36-405</td>
<td>Chs. 363 and 405</td>
</tr>
<tr>
<td>75.</td>
<td>36-664</td>
<td>Chs. 119 and 219</td>
</tr>
<tr>
<td>76.</td>
<td>36-787</td>
<td>Chs. 367 and 405</td>
</tr>
<tr>
<td>77.</td>
<td>36-2604</td>
<td>Chs. 226 and 239</td>
</tr>
<tr>
<td>78.</td>
<td>36-2606</td>
<td>Chs. 239 and 264</td>
</tr>
<tr>
<td>79.</td>
<td>36-2608</td>
<td>Chs. 61 and 226</td>
</tr>
<tr>
<td>80.</td>
<td>36-2803</td>
<td>Chs. 386, 398 and 439</td>
</tr>
<tr>
<td>81.</td>
<td>36-2806</td>
<td>Chs. 387 and 398</td>
</tr>
<tr>
<td>82.</td>
<td>36-2817</td>
<td>Chs. 386, 398 and 419</td>
</tr>
<tr>
<td>83.</td>
<td>36-2821</td>
<td>Chs. 285 and 439</td>
</tr>
<tr>
<td>84.</td>
<td>36-2854</td>
<td>Chs. 387, 394 and 439</td>
</tr>
<tr>
<td>85.</td>
<td>37-483</td>
<td>Chs. 44 and 285</td>
</tr>
<tr>
<td>86.</td>
<td>38-673</td>
<td>Chs. 205 and 320</td>
</tr>
<tr>
<td>87.</td>
<td>38-842</td>
<td>Chs. 23 and 120</td>
</tr>
<tr>
<td>88.</td>
<td>38-848</td>
<td>Chs. 34, 251 and 405 <em>(Effective 1/1/22)</em></td>
</tr>
<tr>
<td>89.</td>
<td>41-179</td>
<td>Chs. 188 and 285</td>
</tr>
<tr>
<td>90.</td>
<td>41-619.51</td>
<td>Chs. 210, 226, 282, 301 and 323 <em>(Effective 1/1/22)</em></td>
</tr>
<tr>
<td>91.</td>
<td>41-1092</td>
<td>Chs. 161 and 334 <em>(Effective 1/1/22)</em></td>
</tr>
<tr>
<td>92.</td>
<td>41-1092.02</td>
<td>Chs. 2 and 404</td>
</tr>
<tr>
<td>93.</td>
<td>41-1520</td>
<td>Chs. 196 and 266</td>
</tr>
<tr>
<td>94.</td>
<td>41-1750</td>
<td>Chs. 240 and 404</td>
</tr>
<tr>
<td>95.</td>
<td>41-1758</td>
<td>Chs. 210, 226, 282, 301 and 323 <em>(Effective 1/1/22)</em></td>
</tr>
<tr>
<td>96.</td>
<td>41-1758.01</td>
<td>Chs. 210, 226, 282, 301 and 323 <em>(Effective 1/1/22)</em></td>
</tr>
<tr>
<td>97.</td>
<td>41-5784</td>
<td>Chs. 67 and 404</td>
</tr>
<tr>
<td>98.</td>
<td>41-5785</td>
<td>Chs. 67 and 404</td>
</tr>
<tr>
<td>99.</td>
<td>42-5009</td>
<td>Chs. 220 and 417</td>
</tr>
<tr>
<td>100.</td>
<td>42-5061</td>
<td>Chs. 266, 412, 417 and 443 <em>(Conditionally Effective)</em></td>
</tr>
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<td><em>(L.19, Ch. 273, sec. 7 &amp; Ch. 288, sec. 1)</em></td>
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<td>101.</td>
<td>42-5061</td>
<td>Chs. 266, 412, 417 and 443 <em>(Conditionally Effective)</em></td>
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<td><em>(L.19, Ch. 273, sec. 8 &amp; Ch. 288, sec. 2)</em></td>
</tr>
<tr>
<td>102.</td>
<td>42-5071</td>
<td>Chs. 220 and 417</td>
</tr>
<tr>
<td>103.</td>
<td>42-5075</td>
<td>Chs. 266 and 417</td>
</tr>
<tr>
<td>104.</td>
<td>42-5159</td>
<td>Chs. 266, 412 and 417</td>
</tr>
<tr>
<td>105.</td>
<td>42-6017</td>
<td>Chs. 266 and 443</td>
</tr>
<tr>
<td>106.</td>
<td>43-222</td>
<td>Chs. 196, 383, 412 and 425 <em>(Effective 1/1/22)</em></td>
</tr>
<tr>
<td>107.</td>
<td>43-581</td>
<td>Chs. 412 and 425 <em>(Effective 1/1/22)</em></td>
</tr>
<tr>
<td>108.</td>
<td>43-1021</td>
<td>Chs. 196 and 425 <em>(Effective 1/1/22)</em></td>
</tr>
<tr>
<td>109.</td>
<td>43-1022</td>
<td>Chs. 196, 395 and 412</td>
</tr>
<tr>
<td>110. 43-1089.01</td>
<td>Chs. 196 and 412</td>
<td></td>
</tr>
<tr>
<td>111. 43-1089.02</td>
<td>Chs. 383 and 404</td>
<td></td>
</tr>
<tr>
<td>112. 43-1122</td>
<td>Chs. 412 and 430</td>
<td></td>
</tr>
<tr>
<td>113. 43-1164.05</td>
<td>Chs. 196 and 266</td>
<td></td>
</tr>
<tr>
<td>114. 48-805</td>
<td>Chs. 145 and 241</td>
<td></td>
</tr>
<tr>
<td>115. 48-805.02</td>
<td>Chs. 158 and 241</td>
<td></td>
</tr>
<tr>
<td>116. 48-822</td>
<td>Chs. 145 and 158</td>
<td></td>
</tr>
<tr>
<td>117. 49-202</td>
<td>Chs. 88 and 325</td>
<td></td>
</tr>
<tr>
<td>118. 49-250</td>
<td>Chs. 32, 88 and 325</td>
<td></td>
</tr>
<tr>
<td>119. 49-255.01</td>
<td>Chs. 285 and 325</td>
<td></td>
</tr>
<tr>
<td>120. 49-256.01</td>
<td>Chs. 285 and 325</td>
<td></td>
</tr>
<tr>
<td>121. 49-257.01</td>
<td>Chs. 32 and 285</td>
<td></td>
</tr>
<tr>
<td>122. 49-262</td>
<td>Chs. 214 and 325</td>
<td></td>
</tr>
<tr>
<td>123. 49-542</td>
<td>Chs. 27 and 116</td>
<td></td>
</tr>
<tr>
<td>124. 49-542</td>
<td>Chs. 27 and 116 (Conditionally Effective)</td>
<td></td>
</tr>
<tr>
<td>125. 49-701</td>
<td>Chs. 277 and 325</td>
<td></td>
</tr>
<tr>
<td>126. 49-1009</td>
<td>Chs. 37 and 440</td>
<td></td>
</tr>
<tr>
<td>127. 49-1273</td>
<td>Chs. 262 and 407</td>
<td></td>
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</tbody>
</table>
EXPLANATION OF BLEND
SECTION 4-101

Laws 2021, Chapters 118 and 375

Laws 2021, Ch. 118, section 1
Effective September 29, 2021

Laws 2021, Ch. 375, section 1
Effective October 1, 2021

Explanation

Since these two enactments are compatible, the Laws 2021, Ch. 118 and Ch. 375
text changes to section 4-101 are blended in the form shown on the following pages.
4-101. Definitions
In this title, unless the context otherwise requires:

1. "Act of violence":

(a) Means an incident consisting of a riot, a fight, an altercation or tumultuous conduct and that meets at least one of the following criteria:

(i) In which bodily injuries are sustained by any person and the injuries would be obvious to a reasonable person.

(ii) Of sufficient intensity as to require the intervention of a peace officer to restore normal order.

(iii) In which a weapon is brandished, displayed or used.

(iv) Where a licensee or an employee or contractor of the licensee fails to follow a clear and direct lawful order from a law enforcement officer or a fire marshal.

(b) Does not include the use of nonlethal devices by a peace officer.

2. "Aggrieved party" means a person who resides at, owns or leases property within a one-mile radius of the premises proposed to be licensed and who filed a written request with the department to speak in favor of or opposition to the issuance of the license not later than sixty days after filing the application or fifteen days after action by the local governing body, whichever is sooner.

3. "Beer":

(a) Means any beverage obtained by the alcoholic fermentation, infusion or decoction of barley malt, hops, RICE, BRAN or other ingredients not drinkable GRAIN, GLUCOSE, SUGAR or MOLASSES, or any combination of them, and may include, as adjuncts in fermentation, HONEY, FRUIT, FRUIT JUICE, FRUIT CONCENTRATE, HERBS, SPICES AND OTHER FOOD MATERIALS.

(b) Includes beer aged in an empty wooden barrel previously used to contain wine or distilled spirits and as such is not considered a dilution or mixture of any other spirituous liquor.

4. "Biometric identity verification device" means a device authorized by the department that instantly verifies the identity and age of a person by an electronic scan of a biometric of the person, through a fingerprint, iris image, facial image or other biometric characteristic, or any combination of these characteristics, that references the person's identity and age against any record described in section 4-241, subsection K, and that meets all of the following conditions:

(a) The authenticity of the record was previously verified by an electronic authentication process.

(b) The identity of and information about the record holder was previously verified through either:

(i) A secondary electronic authentication process or set of processes utilizing commercially available data, such as a public records query or a knowledge-based authentication quiz.

(ii) Utilizing a state or federal government system of record for digital authentication.
(c) The authenticated record was securely linked to biometrics contemporaneously collected from the verified record holder and is stored in a centralized, highly secured, encrypted biometric database.

5. "Board" means the state liquor board.

6. "Bona fide guest" means:
   (a) An individual who is personally familiar to the member, who is personally sponsored by the member and whose presence as a guest is in response to a specific and personal invitation.
   (b) In the case of a club that meets the criteria prescribed in paragraph 8, subdivision (a) of this section, a current member of the armed services of the United States who presents proper military identification and any member of a recognized veterans' organization of the United States and of any country allied with the United States during current or past wars or through treaty arrangements.

7. "Broken package" means any container of spirituous liquor on which the United States tax seal has been broken or removed; or from which the cap, cork or seal placed thereon on the container by the manufacturer has been removed.

8. "Club" includes any of the following organizations where the sale of spirituous liquor for consumption on the premises is made only to members, spouses of members, families of members, bona fide guests of members and guests at other events authorized in this title:
   (a) A post, chapter, camp or other local unit composed solely of veterans and its duly recognized auxiliary that has been chartered by the Congress of the United States for patriotic, fraternal or benevolent purposes and that has, as the owner, lessee or occupant, operated an establishment for that purpose in this state.
   (b) A chapter, aerie, parlor, lodge or other local unit of an American national fraternal organization that has, as the owner, lessee or occupant, operated an establishment for fraternal purposes in this state. An American national fraternal organization as used in this subdivision shall actively operate in at least thirty-six states or have been in active continuous existence for at least twenty years.
   (c) A hall or building association of a local unit mentioned in Subdivisions (a) and (b) of this paragraph—of which all of the capital stock of which is owned by the local unit or the members[. . .] and that operates the clubroom facilities of the local unit.
   (d) A golf club that has more than fifty bona fide members and that owns, maintains or operates a bona fide golf links together with a clubhouse.
   (e) A social club with THAT HAS more than one hundred bona fide members who are actual residents of the county in which it is located, that owns, maintains or operates club quarters, that is authorized and incorporated to operate as a nonprofit club under the laws of this state, and that has been continuously incorporated and operating for a period of at least one year. The club shall have had, during this one-year period, a bona fide membership with regular meetings conducted at least once each month, and the membership shall be and shall have been actively engaged in carrying out the objects of the club. The club's membership shall consist of bona fide dues-paying members paying DUES OF at least $6 per year, payable monthly, quarterly or annually, which have been recorded by the secretary
of the club, and the members at the time of application for a club license shall be in good standing having for at least one full year paid dues. At least fifty-one percent of the members shall have signified their intention to secure a social club license by personally signing a petition, on a form prescribed by the board, which shall also include the correct mailing address of each signer. The petition shall not have been signed by a member at a date earlier than one hundred eighty days before the filing of the application. The club shall qualify for exemption from the payment of state income taxes under title 43. It is the intent of this subdivision that a license shall not be granted to a club that is, or has been, primarily formed or activated to obtain a license to sell liquor, but solely to a bona fide club, where the sale of liquor is incidental to the main purposes of the club.

(f) An airline club operated by or for airlines that are certificated by the United States government and that maintain or operate club quarters located at airports with international status.

9. "Company" or "association", when used in reference to a corporation, includes successors or assigns.

10. "Control" means the power to direct or cause the direction of the management and policies of an applicant or licensee, whether through the ownership of voting securities or a partnership interest, by agreement or otherwise. Control is presumed to exist if a person has the direct or indirect ownership of or power to vote ten percent or more of the outstanding voting securities of the applicant or licensee or to control in any manner the election of one or more of the directors of the applicant or licensee. In the case of a partnership, control is presumed to mean the general partner or a limited partner who holds ten percent or more of the voting rights of the partnership. For the purposes of determining the percentage of voting securities owned, controlled or held by a person, there shall be aggregated with the voting securities attributed to the person the voting securities of an officer, partner, employee or agent of the person or a spouse, parent or child of the person. Control is also presumed to exist if a creditor of the applicant or licensee holds a beneficial interest in ten percent or more of the liabilities of the licensee. The presumptions in this paragraph regarding control are rebuttable.

11. "Controlling person" means a person directly or indirectly possessing control of an applicant or licensee.

12. "Craft distiller" means a distiller in the United States or in a territory or possession of the United States that holds a license pursuant to section 4-205.10.

13. "Department" means the department of liquor licenses and control.

14. "Director" means the director of the department of liquor licenses and control.

15. "Distilled spirits" includes alcohol, brandy, whiskey, rum, tequila, mescal, gin, absinthe, a compound or mixture of any of them or of any of them with any vegetable or other substance, alcohol bitters, bitters containing alcohol, fruits preserved in ardent spirits, and any alcoholic mixture or preparation, whether patented or otherwise, that may in sufficient quantities produce intoxication.
16. "Employee" means any person who performs any service on licensed premises on a full-time, part-time or contract basis with consent of the licensee, whether or not the person is denominated an employee— or independent contractor or otherwise. Employee does not include a person who is exclusively on the premises for musical or vocal performances, for repair or maintenance of the premises or for the delivery of goods to the licensee.

17. "Farm winery" means a winery in the United States or in a territory or possession of the United States that holds a license pursuant to section 4-205.04.

18. "Government license" means a license to serve and sell spirituous liquor on specified premises available only to a state agency, state board, state commission, county, city, town, community college or state university or the national guard or Arizona Coliseum and Exposition Center on application by the governing body of a— THE state agency, state board, state commission, county, city, town, community college or state university or the national guard or Arizona exposition and state fair board.

19. "Legal drinking age" means twenty-one years of age or older.

20. "License" means a license or an interim retail permit issued pursuant to this title.

21. "Licensee" means a person who has been issued a license or an interim retail permit pursuant to this title or a special event licensees.

22. "License fees" means fees collected for license issuance, license application, license renewal, interim permit issuance and license transfer between persons or locations.

23. "Manager" means a natural person who meets the standards required of licensees and who has authority to organize, direct, carry on, control or otherwise operate a licensed business on a temporary or full-time basis.

24. "MENU FOOD ITEM" MEANS A FOOD ITEM FROM A REGULAR MENU, SPECIAL MENU OR HAPPY HOUR MENU THAT IS PREPARED BY THE LICENSEE OR THE LICENSEE'S EMPLOYEE.

25. "Microbrewery" means a brewery in the United States or in a territory or possession of the United States that meets the requirements of section 4-205.08.

26. "MIXED COCKTAIL":
(a) MEANS ANY DRINK COMBINED AT THE PREMISES OF AN AUTHORIZED LICENSEE THAT CONTAINS A SPIRITUOUS LIQUOR AND THAT IS COMBINED WITH AT LEAST ONE OTHER INGREDIENT, WHICH MAY INCLUDE ADDITIONAL SPIRITUOUS LIQUORS, FRUIT JUICE, VEGETABLE JUICE, MIXERS, CREAM, FLAVORED SYRUP OR OTHER INGREDIENTS EXCEPT WATER, AND THAT WHEN COMBINED CONTAINS MORE THAN ONE-HALF OF ONE PERCENT OF ALCOHOL BY VOLUME.
(b) DOES NOT INCLUDE A DRINK SOLD IN AN ORIGINAL MANUFACTURER'S PACKAGING OR ANY DRINK Poured FROM AN ORIGINAL MANUFACTURER'S PACKAGE WITHOUT THE ADDITION OF ALL OF THE COCKTAIL'S OTHER INGREDIENTS AT THE PREMISES OF THE LICENSED BAR, LIQUOR STORE OR RESTAURANT.

27. "Off-sale retailer" means any person operating that operates a bona fide regularly established retail liquor store selling spirituous liquors, wines and beer[s,] and any established retail store selling that sells commodities other than spirituous liquors and that is engaged in the sale of spirituous liquors only in the original
unbroken package, to be taken away from the premises of the retailer and to be consumed off the premises.

28. "On-sale retailer" means any person operating an establishment where spirituous liquors are sold in the original container for consumption on or off the premises or in individual portions for consumption on the premises.

29. "Permanent occupancy" means the maximum occupancy of the building or facility as set by the office of the state fire marshal for the jurisdiction in which the building or facility is located.

30. "Person" includes a partnership, limited liability company, association, company or corporation, as well as a natural person.

31. "Premises" or "licensed premises" means the area from which the licensee is authorized to sell, dispense or serve spirituous liquors under the provision of the license. Premises or licensed premises includes a patio that is not contiguous to the remainder of the premises or licensed premises if the patio is separated from the remainder of the premises or licensed premises by a public or private walkway or driveway not to exceed thirty feet, subject to rules the director may adopt to establish criteria for noncontiguous premises.

32. "REGISTERED ALCOHOL DELIVERY CONTRACTOR":
   (a) MEANS A PERSON WHO DELIVERS SPIRITOUS LIQUOR TO A CONSUMER ON BEHALF OF A BAR, BEER AND WINE BAR, LIQUOR STORE, BEER AND WINE STORE OR RESTAURANT.
   (b) DOES NOT INCLUDE:
      (i) A MOTOR CARRIER AS DEFINED IN SECTION 28-5201.
      (ii) AN INDEPENDENT CONTRACTOR, A SUBCONTRACTOR OF AN INDEPENDENT CONTRACTOR, AN EMPLOYEE OF AN INDEPENDENT CONTRACTOR OR AN EMPLOYEE OF A SUBCONTRACTOR AS PROVIDED IN SECTION 4-203, SUBSECTION J.

33. "Registered mail" includes certified mail.

34. "Registered retail agent" means any person who is authorized pursuant to section 4-222 to purchase spirituous liquors for and on behalf of the person and other retail licensees.

35. "Repeated acts of violence" means:
   (a) For licensed premises with a permanent occupancy of two hundred or fewer persons, two or more acts of violence occurring within seven days or three or more acts of violence occurring within thirty days.
   (b) For licensed premises with a permanent occupancy of more than two hundred but not more than four hundred persons, four or more acts of violence within thirty days.
   (c) For licensed premises with a permanent occupancy of more than four hundred but not more than six hundred fifty persons, five or more acts of violence within thirty days.
   (d) For licensed premises with a permanent occupancy of more than six hundred fifty but not more than one thousand fifty persons, six or more acts of violence within thirty days.
   (e) For licensed premises with a permanent occupancy of more than one thousand fifty persons, seven or more acts of violence within thirty days.
36. "Sell" includes soliciting or receiving an order for, keeping or exposing for sale, directly or indirectly delivering for value, peddling, keeping with intent to sell and trafficking in.

37. "Spiritous liquor" includes alcohol, brandy, whiskey, rum, tequila, mescal, gin, wine, porter, ale, beer, any malt liquor or malt beverage, absinthe, a compound or mixture of any of them or of any of them with any vegetable or other substance, alcohol bitters, bitters containing alcohol, any liquid mixture or preparation, whether patented or otherwise, which produces intoxication, fruits preserved in ardent spirits, and beverages containing more than one-half of one percent of alcohol by volume.

38. "TAMPERPROOF SEALED" MEANS DESIGNED TO PREVENT CONSUMPTION WITHOUT THE REMOVAL OF A TAMPERPROOF CAP, SEAL, CORK OR CLOSURE THAT HAS A DEVICE, MECHANISM OR ADHESIVE THAT CLEARLY SHOWS WHETHER A CONTAINER HAS BEEN OPENED.

39. "Vehicle" means any means of transportation by land, water or air, and includes everything made use of in any way for such transportation.

40. "Vending machine" means a machine that dispenses merchandise through the means of coin, token, credit card or other nonpersonal means of accepting payment for merchandise received.

41. "Veteran" means a person who has served in the United States air force, army, navy, marine corps or coast guard, as an active nurse in the services of the American red cross, in the army and navy nurse corps in time of war, or in any expedition of the armed forces of the United States, and who has received a discharge other than dishonorable.

42. "Voting security" means any security presently entitling the owner or holder of the security to vote for the election of directors of an applicant or a licensee.

43. "Wine" means the product obtained by the fermentation of grapes, other agricultural products containing natural or added sugar or cider or any such alcoholic beverage fortified with grape brandy and containing not more than twenty-four percent of alcohol by volume.
EXPLANATION OF BLEND
SECTION 4-203

Laws 2021, Chapters 94, 375 and 397

Laws 2021, Ch. 94, section 1  Effective September 29, 2021
Laws 2021, Ch. 375, section 2  Effective October 1, 2021
Laws 2021, Ch. 397, section 1  Effective September 29, 2021

Explanation

Since these three enactments are compatible, the Laws 2021, Ch. 94, Ch. 375 and Ch. 397 text changes to section 4-203 are blended effective from and after September 30, 2021 in the form shown on the following pages.
4-203. **Licenses; issuance; transfer; reversion to state**

A. A spirituous liquor license shall be issued only after satisfactory showing of the capability, qualifications and reliability of the applicant and, with the exception of wholesaler, producer, government or club licenses, that the public convenience requires and that the best interest of the community will be substantially served by the issuance. If an application is filed for the issuance of a transferable or nontransferable license, other than for a craft distiller license, a microbrewery license or a farm winery license, for a location that on the date the application is filed has a valid license of the same series, or in the case of a restaurant license application filed for a location with a valid hotel-motel license, issued at that location, there shall be a rebuttable presumption that the public convenience and best interest of the community at that location was established at the time the location was previously licensed. The presumption may be rebutted by competent contrary evidence. The presumption shall not apply once the licensed location has not been in use for more than one hundred eighty days and the presumption shall not extend to the personal qualifications of the applicant.

B. The license shall be to manufacture, sell or deal in spirituous liquors only at the place and in the manner provided in the license. A separate license shall be issued for each specific business, and each shall specify:

1. The particular spirituous liquors that the licensee is authorized to manufacture, sell or deal in.
2. The place of business for which issued.
3. The purpose for which the liquors may be manufactured or sold.

C. A spirituous liquor license issued to a bar, a liquor store or a beer and wine bar shall be transferable as to any permitted location within the same county, if the transfer meets the requirements of an original application. A spirituous liquor license may be transferred to a person qualified to be a licensee, if the transfer is pursuant to either judicial decree, nonjudicial foreclosure of a legal or equitable lien, including security interests held by financial institutions pursuant to section 4-205.05, a sale of the license, a bona fide sale of the entire business and stock in trade, or other bona fide transactions that are provided for by rule. Any change in ownership of the business of a licensee, directly or indirectly, as defined by rule is deemed a transfer, except that there is no transfer if a new artificial person is added to the ownership of a licensee's business but the controlling persons remain identical to the controlling persons that have been previously disclosed to the director as part of the licensee's existing ownership.

D. All applications for a new license pursuant to section 4-201 or for a transfer to a new location pursuant to subsection C of this section shall be filed with and determined by the director, except when the governing
body of the city or town or the board of supervisors receiving an application pursuant to section 4-201 orders disapproval of the application or when the director, the state liquor board or any aggrieved party requests a hearing. The application shall then be presented to the state liquor board, and the new license or transfer shall not become effective unless approved by the state liquor board.

E. A person who assigns, surrenders, transfers or sells control of a liquor license or business that has a spirituous liquor license shall notify the director within thirty business days after the assignment, surrender, transfer or sale. A spirituous liquor license shall not be leased or subleased. A concession agreement entered into under section 4-205.03 is not considered a lease or sublease in violation of this section.

F. If a person other than those persons originally licensed acquires control over a license or licensee, the person shall file notice of the acquisition with the director within thirty business days after the acquisition of control and a list of officers, directors or other controlling persons on a form prescribed by the director. There is no acquisition of control if a new person is added to the ownership of a licensee's business but the controlling persons remain identical to the controlling persons that have been previously disclosed to the director as part of the licensee's existing ownership. All officers, directors or other controlling persons shall meet the qualifications for licensure as prescribed by this title. On request, the director shall conduct a preinvestigation before the assignment, sale or transfer of control of a license or licensee, the reasonable costs of which, not more than $1,000, shall be borne by the applicant. The preinvestigation shall determine whether the qualifications for licensure as prescribed by this title are met. On receipt of notice of an acquisition of control or request of a preinvestigation, the director, within fifteen days after receipt, shall forward the notice of the acquisition of control to the local governing body of the city or town, if the licensed premises is in an incorporated area, or the county, if the licensed premises is in an unincorporated area. The director shall include in the notice to the local governing body written instructions on how the local governing body may examine, free of charge, the results of the department's investigation regarding the capabilities, qualifications and reliability of all officers, directors or other controlling persons listed in the application for acquisition of control. The local governing body, or the governing body's designee, may provide the director with a recommendation, either in favor of or against the acquisition of control, within sixty days after the director mails the notice, but section 4-201 does not apply to the acquisition of control provided for in this section. A local governing body may charge not more than one fee, regardless of the number of licenses held by the applicant, for review of one or more applications for acquisition of control submitted to the department at the same time and for the same entity. Within one hundred five days after filing the notice of the acquisition of control, the director shall determine whether the applicant is qualified, capable and reliable for licensure. A recommendation by the local governing body, or the governing body's designee, against the acquisition of control or denial by the director shall
be set for a hearing before the board. The person who has acquired control of a license or licensee has the burden of an original application at the hearing, and the board shall make its determination pursuant to section 4-202 and this section with respect to capability, reliability and qualification.

G. A licensee who holds a license in nonuse status for more than five months shall be required to pay a $100 surcharge for each month thereafter. The surcharge shall be paid at the time the license is returned to active status. A license automatically reverts to the state after being held in continuous nonuse for more than thirty-six months. The director may waive the surcharge and may extend the time period provided in this subsection for good cause if the licensee files a written request for an extension of time to place the license in active status before the date of the automatic reversion. UNLESS THE REVERTED LICENSE OF THE LICENSEE HAS BEEN SUBSEQUENTLY REISSUED, THE DIRECTOR SHALL RELIEVE A LICENSEE OR ITS LEGAL REPRESENTATIVE FROM A PRIOR LICENSE REVERSION UNDER THIS SECTION IF THE REQUEST FOR SUCH RELIEF IS FILED IN WRITING NOT LATER THAN TWO YEARS AFTER THE DATE OF REVERSION. A license shall not be deemed to have gone into active status if the license is transferred to a location that at the time of or immediately before the transfer had an active license of the same type, unless the licenses are under common ownership or control.

H. A restructuring of a licensee's business is not an acquisition of control, a transfer of a spirituous liquor license or the issuance of a new spirituous liquor license if both of the following apply:

1. All of the controlling persons of the licensee and the new business entity are identical.

2. There is no change in control or beneficial ownership.

I. If subsection H of this section applies, the licensee's history of violations of this title is the history of the new business entity. The director may prescribe a form and shall require the applicant to provide the necessary information to ensure compliance with this subsection and subsections F and G of this section.

J. Notwithstanding subsection B of this section, the holder of a retail license in this state having off-sale privileges, EXCEPT A BAR, BEER AND WINE BAR OR RESTAURANT LICENSEE, may take orders by telephone, mail, fax, OR catalog, through the internet or by other means for the sale and delivery of spirituous liquor off of the licensed premises to a person in this state in connection with the sale of spirituous liquor. Notwithstanding the definition of "sell" PRESCRIBED in section 4-101, the placement of an order and payment pursuant to this section is not a sale until delivery has been made. At the time that the order is placed, the licensee shall inform the purchaser that state law requires a purchaser of spirituous liquor to be at least twenty-one years of age and that the person accepting delivery of the spirituous liquor is required to comply with this state's age identification requirements as prescribed in section 4-241, subsections A and K. The licensee may maintain a delivery service and may contract with one or more independent contractors, that may also contract with one or more independent contractors, or may contract with a common carrier for delivery of spirituous liquor if the spirituous liquor is loaded for delivery at the
premises of the retail licensee in this state and delivered in this state. EXCEPT IF THE PERSON DELIVERING THE ORDER HAS PERSONALLY RETRIEVED AND BAGGED OR OTHERWISE PACKAGED THE CONTAINER OF SPIRITUOUS LIQUOR FOR DELIVERY AND THE LICENSEE RECORDS, OR REQUIRES TO BE RECORDED ELECTRONICALLY, THE IDENTIFICATION INFORMATION FOR EACH DELIVERY, all containers of spirituous liquor delivered pursuant to this subsection shall be conspicuously labeled with the words "contains alcohol, signature of person who is twenty-one years of age or older is required for delivery". The licensee is responsible for any violation of this title or any rule adopted pursuant to this title that is committed in connection with any sale or delivery of spirituous liquor. Delivery must be made by an employee of the licensee or other authorized person as provided by this section who is at least twenty-one years of age to a customer who is at least twenty-one years of age and who displays an identification at the time of delivery that complies with section 4-241, subsection K. The retail licensee shall collect payment for the full price of the spirituous liquor from the purchaser before the product leaves the licensed premises. The director shall adopt rules that set operational limits for the delivery of spirituous liquors by the holder of a retail license having off-sale privileges. With respect to the delivery of spirituous liquor, for any violation of this title or any rule adopted pursuant to this title that is based on the act or omission of a licensee's employee or other authorized person, the mitigation provisions PROVISIONS OF section 4-210, subsection G APPLY APPLIES, with the exception of the training requirement. For the purposes of this subsection and notwithstanding the definition of "sell" prescribed in section 4-101, section 4-241, subsections A and K apply only at the time of delivery. For the purposes of compliance with this subsection, an independent contractor, a subcontractor of an independent contractor, the employee of an independent contractor or the employee of a subcontractor is deemed to be acting on behalf of the licensee when making a delivery of spirituous liquor for the licensee.

K. Except as provided in subsection J of this section, Arizona licensees may transport spirituous liquors for themselves in vehicles owned, leased or rented by the licensee.

L. Notwithstanding subsection B of this section, an off-sale retail licensee may provide consumer tasting of wines off of the licensed premises subject to all applicable provisions of section 4-206.01.

M. The director may adopt reasonable rules to protect the public interest and prevent abuse by licensees of the activities permitted such licensees by subsections J and L of this section.

N. Failure to pay any surcharge prescribed by subsection G of this section or failure to report the period of nonuse of a license shall be grounds for revocation of the license or grounds for any other sanction provided by this title. The director may consider extenuating circumstances if control of the license is acquired by another party in determining whether or not to impose any sanctions under this subsection.

O. If a licensed location has not been in use for three years, the location must requalify for a license pursuant to subsection A of this section and shall meet the same qualifications required for issuance of a new license except when the director deems that the nonuse of the location
was due to circumstances beyond the licensee's control and an extension of time has been granted pursuant to subsection G of this section.

P. If the licensee's interest is forfeited pursuant to section 4-210, subsection L, the location shall requalify for a license pursuant to subsection A of this section and shall meet the same qualifications required for issuance of a new license except when a bona fide lienholder demonstrates mitigation pursuant to section 4-210, subsection K.

Q. The director may implement a procedure for the issuance of a license with a licensing period of two years.

R. For any sale of a farm winery or craft distiller or change in ownership of a farm winery or craft distiller directly or indirectly, the business, stock-in-trade and spirituous liquor may be transferred with the ownership, in compliance with the applicable requirements of this title.

S. NOTWITHSTANDING SUBSECTION B OF THIS SECTION, BAR, BEER AND WINE BAR, LIQUOR STORE, BEER AND WINE STORE OR RESTAURANT LICENSEES IN THIS STATE MAY TAKE ORDERS BY TELEPHONE, MAIL, FAX OR CATALOG, THROUGH THE INTERNET OR BY OTHER MEANS FOR THE SALE AND DELIVERY OF SPIRITUOUS LIQUOR OFF THE LICENSED PREMISES AS FOLLOWS:

1. BAR LICENSEES FOR BEER, WINE, DISTILLED SPIRITS AND MIXED COCKTAILS.

2. BEER AND WINE BAR LICENSEES FOR BEER AND WINE.

3. LIQUOR STORE LICENSEES FOR BEER, WINE, DISTILLED SPIRITS AND MIXED COCKTAILS.

4. BEER AND WINE STORE LICENSEES FOR BEER AND WINE.

5. RESTAURANT LICENSEES FOR ANY OF THE FOLLOWING:
   (a) MIXED COCKTAILS, WITH THE SALE OF MENU FOOD ITEMS FOR CONSUMPTION ON OR OFF THE LICENSED PREMISES, IF THE RESTAURANT HOLDS A PERMIT ISSUED PURSUANT TO SECTION 4-203.07 AND SECTION 4-205.02, SUBSECTION K OR A LEASE PURSUANT TO SECTION 4-203.06.
   (b) BEER IF THE RESTAURANT HOLDS A PERMIT ISSUED PURSUANT TO SECTION 4-205.02, SUBSECTION H.
   (c) BEER, WINE AND DISTILLED SPIRITS IF THE RESTAURANT HOLDS AN OFF-SALE PRIVILEGES LEASE WITH A BAR OR LIQUOR STORE PURSUANT TO SECTION 4-203.07.
   (d) BEER AND WINE IF THE RESTAURANT HOLDS AN OFF-SALE PRIVILEGES LEASE WITH A BEER AND WINE BAR PURSUANT TO SECTION 4-203.07.

T. NOTWITHSTANDING THE DEFINITION OF "SELL" PRESCRIBED IN SECTION 4-101, PLACING AN ORDER AND PAYING FOR THAT ORDER PURSUANT TO SUBSECTION S OF THIS SECTION IS NOT A SALE UNTIL DELIVERY HAS BEEN MADE. AT THE TIME THAT THE ORDER IS PLACED, THE LICENSEE SHALL INFORM THE PURCHASER THAT STATE LAW REQUIRES A PURCHASER OF SPIRITUOUS LIQUOR TO BE AT LEAST TWENTY-ONE YEARS OF AGE AND THAT THE PERSON ACCEPTING DELIVERY OF THE SPIRITUOUS LIQUOR IS REQUIRED TO COMPLY WITH THIS STATE'S AGE IDENTIFICATION REQUIREMENTS AS PRESCRIBED IN SECTION 4-241, SUBSECTIONS A AND K. THE LICENSEE MAY MAINTAIN A DELIVERY SERVICE AND MAY CONTRACT WITH ONE OR MORE ALCOHOL DELIVERY CONTRACTORS REGISTERED PURSUANT TO SECTION 4-205.13 FOR DELIVERY OF SPIRITUOUS LIQUOR IF THE SPIRITUOUS LIQUOR IS PACKAGED AND TAMPERPROOF SEALED BY THE BAR, BEER AND WINE BAR, LIQUOR STORE, BEER AND WINE STORE OR RESTAURANT LICENSEE OR THE LICENSEE'S EMPLOYEE AND IS LOADED FOR DELIVERY
AT THE PREMISES OF THE RESTAURANT, BEER AND WINE BAR, LIQUOR STORE, BEER AND WINE STORE OR BAR LICENSEE IN THIS STATE AND DELIVERED IN THIS STATE ON THE SAME BUSINESS DAY. A LIQUOR STORE OR BEER AND WINE STORE LICENSEE MAY CONTRACT WITH ONE OR MORE INDEPENDENT CONTRACTORS AS PROVIDED IN SUBSECTION J OF THIS SECTION FOR DELIVERY OF SPIRITUOUS LIQUOR IF THE SPIRITUOUS LIQUOR IS LOADED FOR DELIVERY AT THE PREMISES OF THE LIQUOR STORE OR BEER AND WINE STORE LICENSEE IN THIS STATE AND DELIVERED IN THIS STATE ON THE SAME BUSINESS DAY. ALL CONTAINERS OF SPIRITUOUS LIQUOR DELIVERED PURSUANT TO SUBSECTION S OF THIS SECTION SHALL BE TAMPERPROOF SEALED AND CONSPICUOUSLY LABELED WITH THE WORDS "CONTAINS ALCOHOL, SIGNATURE OF PERSON WHO IS TWENTY-ONE YEARS OF AGE OR OLDER IS REQUIRED FOR DELIVERY". THE LICENSEE IS RESPONSIBLE FOR ANY VIOLATION OF THIS TITLE OR ANY RULE ADOPTED PURSUANT TO THIS TITLE THAT IS COMMITTED IN CONNECTION WITH ANY SALE OR DELIVERY OF SPIRITUOUS LIQUOR. DELIVERY MUST BE MADE BY AN EMPLOYEE OF THE LICENSEE OR AN EMPLOYEE OR AUTHORIZED INDEPENDENT CONTRACTOR OF A REGISTERED ALCOHOL DELIVERY CONTRACTOR AS PROVIDED BY THIS SECTION WHO IS AT LEAST TWENTY-ONE YEARS OF AGE AND DELIVERY MUST BE MADE TO A CUSTOMER WHO IS AT LEAST TWENTY-ONE YEARS OF AGE AND WHO DISPLAYS AN IDENTIFICATION AT THE TIME OF DELIVERY THAT COMPLIES WITH SECTION 4-241, SUBSECTION K. THE RESTAURANT, BEER AND WINE BAR, LIQUOR STORE, BEER AND WINE STORE OR BAR LICENSEE SHALL COLLECT PAYMENT FOR THE FULL PRICE OF THE SPIRITUOUS LIQUOR FROM THE PURCHASER BEFORE THE PRODUCT LEAVES THE LICENSED PREMISES. THE DIRECTOR SHALL ADOPT RULES THAT SET OPERATIONAL LIMITS FOR THE DELIVERY OF SPIRITUOUS LIQUOR PURSUANT TO THIS SUBSECTION AND SUBSECTION S OF THIS SECTION WITH RESPECT TO THE DELIVERY OF SPIRITUOUS LIQUOR. FOR ANY VIOLATION OF THIS TITLE OR ANY RULE ADOPTED PURSUANT TO THIS TITLE THAT IS BASED ON THE ACT OR OMISSION OF A LICENSEE'S EMPLOYEE OR A REGISTERED ALCOHOL DELIVERY CONTRACTOR, THE MITIGATION PROVISION OF SECTION 4-210, SUBSECTION G APPLIES, WITH THE EXCEPTION OF THE TRAINING REQUIREMENT. FOR THE PURPOSES OF THIS SUBSECTION AND NOTWITHSTANDING THE DEFINITION OF "SELL" PRESCRIBED IN SECTION 4-101, SECTION 4-241, SUBSECTIONS A AND K APPLY ONLY AT THE TIME OF DELIVERY. AN ALCOHOL DELIVERY CONTRACTOR, A SUBCONTRACTOR OF AN ALCOHOL DELIVERY CONTRACTOR, AN EMPLOYEE OF AN ALCOHOL DELIVERY CONTRACTOR OR AN EMPLOYEE OF A SUBCONTRACTOR IS DEEMED TO BE ACTING ON BEHALF OF THE LICENSEE WHEN MAKING A DELIVERY OF SPIRITUOUS LIQUOR FOR THE LICENSEE. FOR THE PURPOSES OF THIS SUBSECTION, "BUSINESS DAY" MEANS BETWEEN THE HOURS OF 6:00 A.M. OF ONE DAY AND 2:00 A.M. OF THE NEXT DAY.
EXPLANATION OF BLEND
SECTION 4-226

Laws 2021, Chapters 94 and 375

Laws 2021, Ch. 94, section 5  Effective September 29, 2021
Laws 2021, Ch. 375, section 11  Effective September 29, 2021
 (Retroactive to July 1, 2020)

Explanation

Since these two enactments are compatible, the Laws 2021, Ch. 94 and Ch. 375 text changes to section 4-226 are blended in the form shown on the following page.
BLENDED SECTION 4-226
Laws 2021, Chapters 94 and 375

4-226. Exemptions

The provisions of this title do not apply to THE FOLLOWING:

1. Drugstores selling spirituous liquors only on prescription.

2. Any confectionery candy containing less than five percent by weight of alcohol.

3. Ethyl alcohol intended for use or used for the following purposes:
   (a) Scientific, chemical, mechanical, industrial and medicinal purposes. For the purposes of this paragraph, medicinal purposes do not include ethyl alcohol or spirituous liquor that contains marihuana or usable marihuana as defined in section 36-2801.
   (b) Tax-free, as provided by the acts of Congress and regulations promulgated thereunder UNDER THE ACTS OF CONGRESS.
   (c) In the manufacture of denatured alcohol produced and used as provided by the acts of Congress and regulations promulgated thereunder UNDER THE ACTS OF CONGRESS.
   (d) In the manufacture of patented, patent, proprietary, medicinal, pharmaceutical, antiseptic, toilet, scientific, chemical, mechanical and industrial preparations or products, unfit and not used for beverage purposes.
   (e) In the manufacture of flavoring extracts and syrups unfit for beverage purposes.

4. The purchase, storage, distribution, service or consumption of wine in connection with the bona fide practice of a religious belief or an integral part of a religious exercise by a church recognized by the United States internal revenue service under section 501(c)(3) of the internal revenue code and in a manner not dangerous to public health or safety. This exemption does not apply to any alleged violation of section 4-244, paragraph 9, 34, 35 or 41.

5. Beer OR WINE produced for personal or family use that is not for sale. The beer OR WINE may be removed from the premises where it was made and exhibited at organized affairs, exhibitions or competitions such as homebrewers' OR HOME WINEMAKERS' contests, tasting or judging.

6. THE MANUFACTURE OR SALE OF BITTERS PRODUCTS THAT HAVE BEEN CLASSIFIED AND APPROVED AS A NONBEVERAGE PRODUCT OR UNFIT FOR BEVERAGE PURPOSES BY THE UNITED STATES ALCOHOL AND TOBACCO TAX AND TRADE BUREAU. THIS PARAGRAPH IS CONSISTENT WITH THE CLASSIFICATION GUIDELINES AS ESTABLISHED AND ADMINISTERED BY THE UNITED STATES ALCOHOL AND TOBACCO TAX AND TRADE BUREAU.
EXPLANATION OF BLEND
SECTION 4-244

Laws 2021, Chapters 94, 118 and 375

Laws 2021, Ch. 94, section 8  Effective September 29, 2021
Laws 2021, Ch. 118, section 2  Effective September 29, 2021
Laws 2021, Ch. 375, section 12  Effective October 1, 2021

Explanation

Since these three enactments are compatible, the Laws 2021, Ch. 94, Ch. 118 and Ch. 375 text changes to section 4-244 are blended effective from and after September 30, 2021 in the form shown on the following pages.

The Laws 2021, Ch. 118 version of section 4-244 made a technical change to paragraph 20 in a different manner than the Ch. 375 version. Since this would not produce a substantive change, the blend version reflects the Ch. 375 version.
4-244. Unlawful acts; definition

It is unlawful:

1. For a person to buy for resale, sell or deal in spurious liquors in this state without first having procured a license duly issued by the board, except that the director may issue a temporary permit of any series pursuant to section 4-205.05 to a trustee in bankruptcy to acquire and dispose of the spurious liquor of a debtor.

2. For a person to sell or deal in alcohol for beverage purposes without first complying with this title.

3. For a distiller, vintner, brewer or wholesaler knowingly to sell, dispose of or give spurious liquor to any person other than a licensee except in sampling wares as may be necessary in the ordinary course of business, except in donating spurious liquor to a nonprofit organization that has obtained a special event license for the purpose of charitable fund-raising FUNDRAISING activities or except in donating spurious liquor with a cost to the distiller, brewer or wholesaler of up to $500 in a calendar year to an organization that is exempt from federal income taxes under section 501(c) (3), (4), (6) or (7) of the internal revenue code and not licensed under this title.

4. For a distiller, vintner or brewer to require a wholesaler to offer or grant a discount to a retailer, unless the discount has also been offered and granted to the wholesaler by the distiller, vintner or brewer.

5. For a distiller, vintner or brewer to use a vehicle for trucking or transportation of spurious liquors unless there is affixed to both sides of the vehicle a sign showing the name and address of the licensee and the type and number of the person's license in letters not less than three and one-half inches in height.

6. For a person to take or solicit orders for spurious liquors unless the person is a salesman or solicitor of a licensed wholesaler, a salesman or solicitor of a distiller, brewer, vintner, importer or broker or a registered retail agent.

7. For any retail licensee to purchase spurious liquors from any person other than a solicitor or salesman of a wholesaler licensed in this state.

8. For a retailer to acquire an interest in property owned, occupied or used by a wholesaler in the wholesaler's business, or in a license with respect to the premises of the wholesaler.

9. Except as provided in paragraphs 10 and 11 of this section, for a licensee or other person to sell, furnish, dispose of or give, or cause to be sold, furnished, disposed of or given, to a person under the legal drinking age or for a person under the legal drinking age to buy, receive, have in the person's possession or consume spurious liquor. This paragraph does not prohibit the employment by an off-sale retailer of persons who are at least sixteen years of age to check out, if supervised by a person on the premises who is at least eighteen years of age, package or carry merchandise, including spurious liquor, in unbroken packages, for the convenience of the customer of the employer, if the employer sells primarily merchandise other than spurious liquor.
10. For a licensee to employ a person under eighteen years of age to manufacture, sell or dispose of spirituous liquors. This paragraph does not prohibit the employment by an off-sale retailer of persons who are at least sixteen years of age to check out, if supervised by a person on the premises who is at least eighteen years of age, package or carry merchandise, including spirituous liquor, in unbroken packages, for the convenience of the customer of the employer, if the employer sells primarily merchandise other than spirituous liquor.

11. For an on-sale retailer to employ a person under eighteen years of age in any capacity connected with the handling of spirituous liquors. This paragraph does not prohibit the employment by an on-sale retailer of a person under eighteen years of age who cleans up the tables on the premises for reuse, removes dirty dishes, keeps a ready supply of needed items and helps clean up the premises.

12. For a licensee, when engaged in waiting on or serving customers, to consume spirituous liquor or for a licensee or on-duty employee to be on or about the licensed premises while in an intoxicated or disorderly condition.

13. For an employee of a retail licensee, during that employee's working hours or in connection with such employment, to give to or purchase for any other person, accept a gift of, purchase for the employee or consume spirituous liquor, except that:

(a) An employee of a licensee, during that employee's working hours or in connection with the employment, while the employee is not engaged in waiting on or serving customers, may give spirituous liquor to or purchase spirituous liquor for any other person.

(b) An employee of an on-sale retail licensee, during that employee's working hours or in connection with the employment, while the employee is not engaged in waiting on or serving customers, may taste samples of beer or wine of not more than four ounces per day or distilled spirits of not more than two ounces per day provided by an employee of a wholesaler or distributor who is present at the time of the sampling.

(c) An employee of an on-sale retail licensee, under the supervision of a manager as part of the employee's training and education, while not engaged in waiting on or serving customers may taste samples of distilled spirits of not more than two ounces per educational session or beer or wine of not more than four ounces per educational session, and provided that a licensee does not have more than two educational sessions in any thirty-day period.

(d) An unpaid volunteer who is a bona fide member of a club and who is not engaged in waiting on or serving spirituous liquor to customers may purchase for himself and consume spirituous liquor while participating in a scheduled event at the club. An unpaid participant in a food competition may purchase for himself and consume spirituous liquor while participating in the food competition.

(e) An unpaid volunteer of a special event licensee under section 4-203.02 may purchase and consume spirituous liquor while not engaged in waiting on or serving spirituous liquor to customers at the special event. This subdivision does not apply to an unpaid volunteer whose
responsible include verification of a person's legal drinking age, security or the operation of any vehicle or heavy machinery.

(f) A REPRESENTATIVE OF A PRODUCER OR WHOLESALER PARTICIPATING AT A SPECIAL EVENT UNDER SECTION 4-203.02 MAY CONSUME SMALL AMOUNTS OF THE PRODUCTS OF THE PRODUCER OR WHOLESALER ON THE PREMISES OF THE SPECIAL EVENT FOR THE PURPOSE OF QUALITY CONTROL.

14. For a licensee or other person to serve, sell or furnish spirituous liquor to a disorderly or obviously intoxicated person, or for a licensee or employee of the licensee to allow or permit a disorderly or obviously intoxicated person to come into or remain on or about the premises, except that a licensee or an employee of the licensee may allow an obviously intoxicated person to remain on the premises for not more than thirty minutes after the state of obvious intoxication is known or should be known to the licensee for a nonintoxicated person to transport the obviously intoxicated person from the premises. For the purposes of this section, "obviously intoxicated" means inebriated to the extent that a person's physical faculties are substantially impaired and the impairment is shown by significantly uncoordinated physical action or significant physical dysfunction that would have been obvious to a reasonable person.

15. For an on-sale or off-sale retailer or an employee of such retailer OR AN ALCOHOL DELIVERY CONTRACTOR to sell, dispose of, deliver or give spirituous liquor to a person between the hours of 2:00 a.m. and 6:00 a.m., except that a retailer with off-sale privileges may receive and process orders, accept payment or package, load or otherwise prepare spirituous liquor for delivery at any time, if the actual deliveries to customers are made between the hours of 6:00 a.m. and 2:00 a.m., at which time section 4-241, subsections A and K apply.

16. For a licensee or employee to knowingly permit any person on or about the licensed premises to give or furnish any spirituous liquor to any person under twenty-one years of age or knowingly permit any person under twenty-one years of age to have in the person's possession spirituous liquor on the licensed premises.

17. For an on-sale retailer or an employee of such retailer to allow a person to consume or possess spirituous liquors on the premises between the hours of 2:30 a.m. and 6:00 a.m.

18. For an on-sale retailer to permit an employee or for an employee to solicit or encourage others, directly or indirectly, to buy the employee's drinks or anything of value in the licensed premises during the employee's working hours. An on-sale retailer shall not serve employees or allow a patron of the establishment to give spirituous liquor to, purchase liquor for or drink liquor with any employee during the employee's working hours.

19. For an off-sale retailer or employee to sell spirituous liquor except in the original unbroken container, to be consumed on the premises or to knowingly permit spirituous liquor to be consumed on adjacent property under the licensee's exclusive control.

20. For a person to consume spirituous liquor in a public place, thoroughfare or gathering. The license of a licensee permitting a violation of this paragraph on the premises shall be subject to
revocation. This paragraph does not apply to the sale of spirituous liquors on the premises of and by an on-sale retailer. This paragraph also does not apply to a person consuming beer or wine from a broken package in a public recreation area or on private property with permission of the owner or lessor or on the walkways surrounding such private property or to a person consuming beer or wine from a broken package in a public recreation area as part of a special event or festival that is conducted under a license secured pursuant to section 4-203.02 or 4-203.03.

21. For a person to have possession of or to transport spirituous liquor that is manufactured in a distillery, winery, brewery or rectifying plant contrary to the laws of the United States and this state. Any property used in transporting such spirituous liquor shall be forfeited to the state and shall be seized and disposed of as provided in section 4-221.

22. For an on-sale retailer or employee to allow a person under the legal drinking age to remain in an area on the licensed premises during those hours in which its primary use is the sale, dispensing or consumption of alcoholic beverages after the licensee, or the licensee's employees, know or should have known that the person is under the legal drinking age. An on-sale retailer may designate an area of the licensed premises as an area in which spirituous liquor will not be sold or consumed for the purpose of allowing underage persons on the premises if the designated area is separated by a physical barrier and at no time will underage persons have access to the area in which spirituous liquor is sold or consumed. A licensee or an employee of a licensee may require a person who intends to enter a licensed premises or a portion of a licensed premises where persons under the legal drinking age are prohibited under this section to exhibit an instrument of identification that is acceptable under section 4-241 as a condition of entry or may use a biometric identity verification device to determine the person's age as a condition of entry. The director, or a municipality, may adopt rules to regulate the presence of underage persons on licensed premises provided the rules adopted by a municipality are more stringent than those adopted by the director. The rules adopted by the municipality shall be adopted by local ordinance and shall not interfere with the licensee's ability to comply with this paragraph. This paragraph does not apply:

(a) If the person under the legal drinking age is accompanied by a spouse, parent, GRANDPARENT or legal guardian of legal drinking age or is an on-duty employee of the licensee.

(b) If the owner, lessee or occupant of the premises is a club as defined in section 4-101, paragraph 8, subdivision (a) and the person under the legal drinking age is any of the following:

(i) An active duty military service member.

(ii) A veteran.

(iii) A member of the United States army national guard or the United States air national guard.

(iv) A member of the United States military reserve forces.

(c) To the area of the premises used primarily for the serving of food during the hours when food is served.

23. For an on-sale retailer or employee to conduct drinking contests, to sell or deliver to a person an unlimited number of spirituous liquor beverages during any set period of time for a fixed price, to deliver more
than fifty ounces of beer, one liter of wine or four ounces of distilled spirits in any spirituous liquor drink to one person at one time for that person's consumption or to advertise any practice prohibited by this paragraph. The provisions of this paragraph do not prohibit an on-sale retailer or employee from selling and delivering an opened, original container of distilled spirits if:

(a) Service or pouring of the spirituous liquor is provided by an employee of the on-sale retailer. A LICENSEE SHALL NOT BE CHARGED FOR A VIOLATION OF THIS SUBDIVISION IF A CUSTOMER, WITHOUT THE KNOWLEDGE OF THE RETAILER, REMOVES OR TAMPERS WITH THE LOCKING DEVICE ON A BOTTLE DELIVERED TO THE CUSTOMER FOR BOTTLE SERVICE AND THE CUSTOMER POURS THE CUSTOMER'S OWN DRINK FROM THE BOTTLE, IF WHEN THE LICENSEE BECOMES AWARE OF THE REMOVAL OR TAMPERING OF THE LOCKING DEVICE THE LICENSEE IMMEDIATELY INSTALLS A FUNCTIONING LOCKING DEVICE ON THE BOTTLE OR REMOVES THE BOTTLE AND LOCK FROM BOTTLE SERVICE.

(b) The employee of the on-sale retailer monitors consumption to ensure compliance with this paragraph. Locking devices may be used, but are not required.

24. For a licensee or employee to knowingly permit ALLOW the unlawful possession, use, sale or offer for sale of narcotics, dangerous drugs or marijuana on the premises. For the purposes of this paragraph, "dangerous drug" has the same meaning prescribed in section 13-3401.

25. For a licensee or employee to knowingly permit ALLOW prostitution or the solicitation of prostitution on the premises.

26. For a licensee or employee to knowingly permit ALLOW unlawful gambling on the premises.

27. For a licensee or employee to knowingly permit ALLOW trafficking or attempted trafficking in stolen property on the premises.

28. For a licensee or employee to fail or refuse to make the premises or records available for inspection and examination as provided in this title or to comply with a lawful subpoena issued under this title.

29. For any person other than a peace officer while on duty or off duty or a member of a sheriff's volunteer posse while on duty who has received firearms training that is approved by the Arizona peace officer standards and training board, a retired peace officer as defined in section 38-1113 or an honorably retired law enforcement officer who has been issued a certificate of firearms proficiency pursuant to section 13-3112, subsection T, the licensee or an employee of the licensee acting with the permission of the licensee to be in possession of a firearm while on the licensed premises of an on-sale retailer. This paragraph does not include a situation in which a person is on licensed premises for a limited time in order to seek emergency aid and such person does not buy, receive, consume or possess spirituous liquor. This paragraph does not apply to:

(a) Hotel or motel guest room accommodations.

(b) The exhibition or display of a firearm in conjunction with a meeting, show, class or similar event.

(c) A person with a permit issued pursuant to section 13-3112 who carries a concealed handgun on the licensed premises of any on-sale retailer that has not posted a notice pursuant to section 4-229.
30. For a licensee or employee to knowingly permit a person in possession of a firearm other than a peace officer while on duty or off duty or a member of a sheriff's volunteer posse while on duty who has received firearms training that is approved by the Arizona peace officer standards and training board, a retired peace officer as defined in section 38-1113 or an honorably retired law enforcement officer who has been issued a certificate of firearms proficiency pursuant to section 13-3112, subsection T, the licensee or an employee of the licensee acting with the permission of the licensee to remain on the licensed premises or to serve, sell or furnish spirituous liquor to a person in possession of a firearm while on the licensed premises of an on-sale retailer. It is a defense to action under this paragraph if the licensee or employee requested assistance of a peace officer to remove such person. This paragraph does not apply to:

(a) Hotel or motel guest room accommodations.
(b) The exhibition or display of a firearm in conjunction with a meeting, show, class or similar event.
(c) A person with a permit issued pursuant to section 13-3112 who carries a concealed handgun on the licensed premises of any on-sale retailer that has not posted a notice pursuant to section 4-229.

31. For any person in possession of a firearm while on the licensed premises of an on-sale retailer to consume spirituous liquor. This paragraph does not prohibit the consumption of small amounts of spirituous liquor by an undercover peace officer on assignment to investigate the licensed establishment.

32. For a licensee or employee to knowingly permit spirituous liquor to be removed from the licensed premises, except in the original unbroken package. This paragraph does not apply to any of the following:

(a) A person who removes a bottle of wine that has been partially consumed in conjunction with a purchased meal from licensed premises if a cork is inserted flush with the top of the bottle or the bottle is otherwise securely closed.
(b) A person who is in licensed premises that have noncontiguous portions that are separated by a public or private walkway or driveway and who takes spirituous liquor from one portion of the licensed premises across the public or private walkway or driveway directly to the other portion of the licensed premises.
(c) A licensee of a bar, beer and wine bar, liquor store, beer and wine store, microbrewery or restaurant that has a permit pursuant to section 4-205.02, subsection H that dispenses beer only in a clean container composed of a material approved by a national sanitation organization with a maximum capacity that does not exceed one gallon and not for consumption on the premises if:
   (i) The licensee or the licensee's employee fills the container at the tap at the time of sale.
   (ii) The container is sealed and displays a government warning label.
   (iii) The dispensing of that beer is not done through a drive-through or walk-up service window.
(d) A bar or liquor store licensee that prepares a mixed cocktail or a restaurant licensee that leases the privilege to sell mixed cocktails for consumption off the licensed premises pursuant to section 4-203.06 or holds a permit pursuant to section 4-203.07 and section 4-205.02, subsection K and that prepares a mixed cocktail and transfers it to a clean container composed of a material approved by a national sanitation organization with a maximum capacity that does not exceed thirty-two ounces and not for consumption on the premises if all of the following apply:

(i) The licensee or licensee's employee fills the container with the mixed cocktail on the licensed premises of the bar, liquor store or restaurant.

(ii) The container is tamperproof sealed by the licensee or the licensee's employee and displays a government warning label.

(iii) The container clearly displays the bar's, liquor store's or restaurant's logo or name.

(iv) For a restaurant licensee licensed pursuant to section 4-205.02, the sale of mixed cocktails for consumption off the licensed premises is accompanied by the sale of menu food items for consumption on or off the licensed premises.

33. For a person who is obviously intoxicated to buy or attempt to buy spirituous liquor from a licensee or employee of a licensee or to consume spirituous liquor on licensed premises.

34. For a person under twenty-one years of age to drive or be in physical control of a motor vehicle while there is any spirituous liquor in the person's body.

35. For a person under twenty-one years of age to operate or be in physical control of a motorized watercraft that is underway while there is any spirituous liquor in the person's body. For the purposes of this paragraph, "underway" has the same meaning prescribed in section 5-301.

36. For a licensee, manager, employee or controlling person to purposely induce a voter, by means of alcohol, to vote or abstain from voting for or against a particular candidate or issue on an election day.

37. For a licensee to fail to report an occurrence of an act of violence to either the department or a law enforcement agency.

38. For a licensee to use a vending machine for the purpose of dispensing spirituous liquor.

39. For a licensee to offer for sale a wine carrying a label including a reference to Arizona or any Arizona city, town or geographic location unless at least seventy-five percent by volume of the grapes used in making the wine were grown in Arizona.

40. For a retailer to knowingly allow a customer to bring spirituous liquor onto the licensed premises, except that an on-sale retailer may allow a wine and food club to bring wine onto the premises for consumption by the club's members and guests of the club's members in conjunction with meals purchased at a meeting of the club that is conducted on the premises and that at least seven members attend. An on-sale retailer that allows wine and food clubs to bring wine onto its premises under this paragraph shall comply with all applicable provisions of this title and any rules adopted pursuant to this title to the same extent as if the on-sale retailer had sold the wine to the members of the club and their guests. For the purposes
of this paragraph, "wine and food club" means an association that has more than twenty bona fide members paying at least $6 per year in dues and that has been in existence for at least one year.

41. For a person under twenty-one years of age to have in the person's body any spirituous liquor. In a prosecution for a violation of this paragraph:

(a) Pursuant to section 4-249, it is a defense that the spirituous liquor was consumed in connection with the bona fide practice of a religious belief or as an integral part of a religious exercise and in a manner not dangerous to public health or safety.

(b) Pursuant to section 4-226, it is a defense that the spirituous liquor was consumed for a bona fide medicinal purpose and in a manner not dangerous to public health or safety.

42. For an employee of a licensee to accept any gratuity, compensation, remuneration or consideration of any kind to either:

(a) PERMIT ALLOW a person who is under twenty-one years of age to enter any portion of the premises where that person is prohibited from entering pursuant to paragraph 22 of this section.

(b) Sell, furnish, dispose of or give spirituous liquor to a person who is under twenty-one years of age.

43. For a person to purchase, offer for sale or use any device, machine or process that mixes spirituous liquor with pure oxygen or another gas to produce a vaporized product for the purpose of consumption by inhalation or to allow patrons to use any item for the consumption of vaporized spirituous liquor.

44. For a retail licensee or an employee of a retail licensee to sell spirituous liquor to a person if the retail licensee or employee knows the person intends to resell the spirituous liquor.

45. Except as authorized by paragraph 32, subdivision (c) of this section, for a person to reuse a bottle or other container authorized for use by the laws of the United States or any agency of the United States for the packaging of distilled spirits or for a person to increase the original contents or a portion of the original contents remaining in a liquor bottle or other authorized container by adding any substance.

46. For a direct shipment licensee, a farm winery licensee or an employee of those licensees to sell, dispose of, deliver or give spirituous liquor to an individual purchaser between the hours of 2:00 a.m. and 6:00 a.m., except that a direct shipment licensee or a farm winery licensee may receive and process orders, accept payment, package, load or otherwise prepare wine for delivery at any time without complying with section 4-241, subsections A and K, if the actual deliveries to individual purchasers are made between the hours of 6:00 a.m. and 2:00 a.m. and in accordance with section 4-203.04 for direct shipment licensees and section 4-205.04 for farm winery licensees.
EXPLANATION OF BLEND
SECTION 6-1203

Laws 2021, Chapters 263 and 356

Laws 2021, Ch. 263, section 1  Effective September 29, 2021
Laws 2021, Ch. 356, section 253  Effective September 29, 2021

Explanation

Since these two enactments are compatible, the Laws 2021, Ch. 263 and Ch. 356 text changes to section 6-1203 are blended in the form shown on the following page.
6-1203. Exemptions
A. This chapter does not apply to:
1. The United States or any department or agency of the United States.
2. This state, including any political subdivision of this state.
B. This chapter does not apply to the following if engaged in the regular course of their respective businesses, except that the provisions of article 2 of this chapter apply:
1. A bank, financial institution holding company, credit union, savings and loan association or savings bank, whether organized under the laws of any state or the United States when the term "money transmitter" is used.
2. A person, to the extent that the person provides money transmitter services for an entity described in paragraph 1 of this subsection and if both of the following are met:
   (a) The agency relationship between the person that is providing the money transmitter services and the entity described in paragraph 1 of this subsection is established through a written agreement.
   (b) The entity described in paragraph 1 of this subsection remains responsible for providing the money transmitter services to its customers.
3. A person who engages in check cashing or foreign money exchange and engages in other activity regulated under this chapter only as an authorized delegate of a licensee acting within the scope of the contract between the authorized delegate and the licensee.
4. A person who is licensed pursuant to chapter 5, 6, 7 or 8 of this title, chapter 9, article 2 of this title, chapter 12.1 of this title or title 32, chapter 9.
EXPLANATION OF BLEND
SECTION 6-1207

Laws 2021, Chapters 263 and 356

Laws 2021, Ch. 263, section 2  Effective September 29, 2021

Laws 2021, Ch. 356, section 257  Effective September 29, 2021

Explanation

Since these two enactments are compatible, the Laws 2021, Ch. 263 and Ch. 356 text changes to section 6-1207 are blended in the form shown on the following page.

The Laws 2021, Ch. 356 version of section 6-1207 made a conforming change in subsection C. The Ch. 263 version struck subsection C. Since this would not produce a substantive change, the blend version reflects the Ch. 263 version.
6-1207. Principal and branch offices; notice

A. A licensee shall designate and maintain a principal place of business for the transaction of business regulated by this chapter. If a licensee maintains one or more places of business in this state, the licensee shall designate a place of business in this state as its principal place of business for purposes of this section. The license shall specify the address of the principal place of business and shall designate a responsible individual for its principal place of business.

B. If a licensee maintains one or more locations in this state in addition to a principal place of business, and those locations are to be under the control of the licensee and not under the control of authorized delegates as prescribed in section 6-1208, the licensee shall obtain a branch office license from the superintendent DEPUTY DIRECTOR for each additional location by filing an application as required by the superintendent DEPUTY DIRECTOR at the time the licensee files its license application. If branch offices are added by the licensee, the licensee shall file with the superintendent DEPUTY DIRECTOR an application for a branch office license with the licensee's next quarterly fiscal report prescribed by section 6-1211. The superintendent DEPUTY DIRECTOR shall issue a branch office license if the superintendent DEPUTY DIRECTOR determines that the licensee has complied with the provisions of this subsection. The license shall indicate on its face the address of the branch office and shall designate a manager for each branch office to oversee that office. The superintendent DEPUTY DIRECTOR may disapprove the designated manager then or at any later time if the superintendent DEPUTY DIRECTOR finds that the competence, experience and integrity of the branch manager warrants WARIANT disapproval. A person may be designated as the manager for more than one branch. The licensee shall submit a fee as prescribed in section 6-126 for each branch office license.

C. A licensee shall prominently display the money transmitter license in its principal place of business and the branch office license in each branch office. Each authorized delegate shall prominently display at each location a notice in a form prescribed by the superintendent that indicates that the authorized delegate is an authorized delegate of a licensee under this chapter.

D. C. If the address of the principal place of business or any branch office is changed, the licensee shall immediately notify the superintendent DEPUTY DIRECTOR of the change. The superintendent DEPUTY DIRECTOR shall endorse the change of address on the license for a fee as prescribed in section 6-126.
EXPLANATION OF BLEND
SECTION 6-1208

Laws 2021, Chapters 263 and 356

Laws 2021, Ch. 263, section 3  Effective September 29, 2021
Laws 2021, Ch. 356, section 258  Effective September 29, 2021

Explanation

Since the Ch. 263 version includes all the changes made by the Ch. 356 version, the Laws 2021, Ch. 263 amendment of section 6-1208 is the blend of both the Laws 2021, Ch. 263 and Ch. 356 versions.
6-1208. Authorized delegates of licensee; reports

A. A licensee may conduct the business regulated under this chapter at one or more locations in this state through authorized delegates designated by the licensee.

B. Each contract between a licensee and an authorized delegate shall require the authorized delegate to operate in full compliance with the law and shall contain as an appendix a current copy of this chapter. The licensee shall provide each authorized delegate with operating policies and procedures sufficient to permit ALLOW compliance by the delegate with the provisions of title 13, chapter 23 and this chapter and rules adopted pursuant to this chapter. The licensee shall promptly update the policies and procedures to permit ALLOW compliance with those laws and rules.

C. An authorized delegate is not liable for any obligation imposed on its licensee by this chapter with respect to the business for which it is a delegate. On suspension or revocation of a license or the failure of a licensee to renew its license, the superintendent DEPUTY DIRECTOR shall notify all delegates of the licensee who are on record with the department of the department's action. On receipt of this notice, an authorized delegate shall immediately cease to operate as a delegate of that licensee.
EXPLANATION OF BLEND
SECTION 8-202

Laws 2021, Chapters 222 and 240

Laws 2021, Ch. 222, section 1                    Effective April 14, 2021
Laws 2021, Ch. 240, section 1                    Effective September 29, 2021

Explanation

Since these two enactments are compatible, the Laws 2021, Ch. 222 and Ch. 240 text changes to section 8-202 are blended in the form shown on the following pages.

Section 8-202 was amended an additional time by Laws 2021, Ch. 435, which could not be blended with the Ch. 222 and Ch. 240 versions and will require separate publication in addition to this blend.
8-202. Jurisdiction of juvenile court

A. The juvenile court has original jurisdiction over all delinquency proceedings brought under the authority of this title.

B. The juvenile court has exclusive original jurisdiction over all proceedings brought under the authority of this title except for delinquency proceedings.

C. The juvenile court may consolidate any matter, except that the juvenile court shall not consolidate any of the following:
   1. A criminal proceeding that is filed in another division of superior court and that involves a child who is subject to the jurisdiction of the juvenile court.
   2. A delinquency proceeding with any other proceeding that does not involve delinquency, unless the juvenile delinquency adjudication proceeding is not heard at the same time or in the same hearing as a nondelinquency proceeding.

D. The juvenile court has jurisdiction of proceedings to:
   1. Obtain judicial consent to the marriage, employment or enlistment in the armed services of a child, if consent is required by law.
   2. In an action in which parental rights are terminated pursuant to chapter 4, article 5 or 11 of this title, change the name of a minor child who is the subject of the action. If the minor child who is the subject of the action is twelve years of age or older, the court shall consider the wishes of the child with respect to the name change.

E. The juvenile court has jurisdiction over both civil traffic violations, CIVIL MARIJUANA VIOLATIONS and offenses listed in section 8-323, subsection B that are committed within the county by persons who are under eighteen years of age unless the presiding judge of the county declines jurisdiction of these cases. The presiding judge of the county may decline jurisdiction of civil traffic violations AND CIVIL MARIJUANA VIOLATIONS committed within the county by juveniles if the presiding judge finds that the declination would promote the more efficient use of limited judicial and law enforcement resources located within the county. If the presiding judge declines jurisdiction, juvenile civil traffic violations AND CIVIL MARIJUANA VIOLATIONS shall be processed, heard and disposed of in the same manner and with the same penalties as adult civil traffic violations.

F. The orders of the juvenile court under the authority of this chapter or chapter 3 or 4 of this title take precedence over any order of any other court of this state except the court of appeals and the supreme court to the extent that they are inconsistent with orders of other courts.

G. Except as provided in subsection H of this section, jurisdiction of a child that is obtained by the juvenile court in a proceeding under this chapter or chapter 3 or 4 of this title shall be retained by it, for the purposes of implementing the orders made and filed in that proceeding, until
the child becomes eighteen years of age, unless terminated by order of the court before the child's eighteenth birthday.

H. If at any time before an adjudication hearing or a proceeding in which a juvenile is admitting to an allegation in a petition that alleges the juvenile is delinquent, the state may file a notice of intent to retain jurisdiction when proceedings are commenced pursuant to section 8-301, paragraph 1 or 2, over a juvenile who is seventeen years of age. If the state files a notice of intent to retain jurisdiction, the juvenile court's jurisdiction over a juvenile is retained on the filing of the notice and the court shall retain jurisdiction over the juvenile who is at least seventeen years of age and who has been adjudicated a delinquent juvenile until the juvenile reaches nineteen years of age, unless before the juvenile's nineteenth birthday either:

1. Jurisdiction is terminated by order of the court.
2. The juvenile is discharged from the jurisdiction of the department of juvenile corrections pursuant to section 41-2820.

I. Persons who are under eighteen years of age shall be prosecuted in the same manner as adults if either:

1. The juvenile court transfers jurisdiction pursuant to section 8-327.
2. The juvenile is charged as an adult with an offense listed in section 13-501.

J. The juvenile court shall retain jurisdiction after a juvenile's eighteenth birthday for the purpose of:

1. Designating an undesignated felony offense as a misdemeanor or felony, including after an adjudication is set aside pursuant to section 8-348.
2. Modifying an outstanding monetary obligation imposed by the court except for victim restitution.
3. Implementing section 36-2862.

K. The juvenile court has jurisdiction to make the initial determination prescribed in section 8-829 whether the voluntary participation of a qualified young adult in an extended foster care program pursuant to section 8-521.02 is in the young adult's best interests.
EXPLANATION OF BLENDED
SECTION 8-341

Laws 2021, Chapters 240 and 288

Laws 2021, Ch. 240, section 3 Effective September 29, 2021
Laws 2021, Ch. 288, section 1 Effective September 29, 2021

Explanation

Since these two enactments are compatible, the Laws 2021, Ch. 240 and Ch. 288 text changes to section 8-341 are blended in the form shown on the following pages.

The Laws 2021, Ch. 240 version of section 8-341 made technical changes in subsection S. The Ch. 288 version struck the sentence containing the technical change in subsection S. Since this would not produce a substantive change, the blend version reflects the Ch. 288 version of subsection S.
8-341. Disposition and commitment: definitions
A. After receiving and considering the evidence on the proper disposition of the case, the court may enter judgment as follows:
   1. It may award a delinquent juvenile:
      (a) To the care of the juvenile's parents, subject to the supervision of a probation department.
      (b) To a probation department, subject to any conditions the court may impose, including a period of incarceration in a juvenile detention center of not more than one year.
      (c) To a reputable citizen of good moral character, subject to the supervision of a probation department.
      (d) To a private agency or institution, subject to the supervision of a probation officer.
      (e) To the department of juvenile corrections.
      (f) To maternal or paternal relatives, subject to the supervision of a probation department.
      (g) To an appropriate official of a foreign country of which the juvenile is a foreign national who is unaccompanied by a parent or guardian in this state to remain on unsupervised probation for at least one year on the condition that the juvenile cooperate with that official.
   2. It may award an incorrigible child:
      (a) To the care of the child's parents, subject to the supervision of a probation department.
      (b) To the protective supervision of a probation department, subject to any conditions the court may impose.
      (c) To a reputable citizen of good moral character, subject to the supervision of a probation department.
      (d) To a public or private agency, subject to the supervision of a probation department.
      (e) To maternal or paternal relatives, subject to the supervision of a probation department.
B. If a juvenile is placed on probation pursuant to this section, the period of probation may continue until the juvenile's eighteenth birthday or until the juvenile's nineteenth birthday if jurisdiction is retained pursuant to section 8-202, subsection H, except that the term of probation shall not exceed one year if all of the following apply:
   1. The juvenile is not charged with a subsequent offense.
   2. The juvenile has not been found in violation of a condition of probation.
   3. The court has not made a determination that it is in the best interests of the juvenile or the public to require continued supervision. The court shall state by minute entry or written order its reasons for finding that continued supervision is required.
4. The offense for which the juvenile is placed on probation does not involve a dangerous offense as defined in section 13-105.
5. The offense for which the juvenile is placed on probation does not involve a violation of title 13, chapter 14 or 35.1.
6. Restitution ordered pursuant to section 8-344 has been made.
7. The juvenile's parents have not requested that the court continue the juvenile's probation for more than one year.

C. If a juvenile is adjudicated as a first time felony juvenile offender, the court shall provide the following written notice to the juvenile:

You have been adjudicated a first time felony juvenile offender. You are now on notice that if you are adjudicated of another offense that would be a felony offense if committed by an adult and if you commit the other offense when you are fourteen years of age or older, you will be placed on juvenile intensive probation, which may include home arrest and electronic monitoring, or you may be placed on juvenile intensive probation and may be incarcerated for a period of time in a juvenile detention center, or you may be committed to the department of juvenile corrections or you may be prosecuted as an adult. If you are convicted as an adult of a felony offense and you commit any other offense, you will be prosecuted as an adult.

THIS IS YOUR FIRST FELONY OFFENSE. IF YOU COMMIT ANOTHER FELONY OFFENSE AND YOU ARE FOURTEEN YEARS OF AGE OR OLDER, ANY OF THE FOLLOWING COULD HAPPEN TO YOU:
1. YOU COULD BE TRIED AS AN ADULT IN ADULT CRIMINAL COURT.
2. YOU COULD BE COMMITTED TO THE DEPARTMENT OF JUVENILE CORRECTIONS.
3. YOU COULD BE PLACED ON JUVENILE INTENSIVE PROBATION, WHICH COULD INCLUDE INCARCERATION IN A JUVENILE DETENTION CENTER.

D. If a juvenile is fourteen years of age or older and is adjudicated as a repeat felony juvenile offender, UNLESS THE COURT DETERMINES BASED ON THE SEVERITY OF THE OFFENSE AND A RISK ASSESSMENT THAT JUVENILE INTENSIVE PROBATION SERVICES ARE NOT REQUIRED, the juvenile court shall place the juvenile on juvenile intensive probation, which may include home arrest and electronic monitoring, may place the juvenile on juvenile intensive probation, which may include incarceration for a period of time in a juvenile detention center, or may commit the juvenile to the department of juvenile corrections pursuant to subsection A, paragraph 1, subdivision (e) of this section for a significant period of time.

E. If the juvenile is adjudicated as a repeat felony juvenile offender, the court shall provide the following written notice to the juvenile:

You have been adjudicated a repeat felony juvenile offender. You are now on notice that if you are arrested
for another offense that would be a felony offense if committed by an adult and if you commit the other offense when you are fifteen years of age or older, you will be tried as an adult in the criminal division of the superior court. If you commit the other offense when you are fourteen years of age or older, you may be tried as an adult in the criminal division of the superior court. If you are convicted as an adult, you will be sentenced to a term of incarceration. If you are convicted as an adult of a felony offense and you commit any other offense, you will be prosecuted as an adult.

YOU ARE NOW A REPEAT FELONY OFFENDER. THIS MEANS:

1. YOU WILL BE TRIED AS AN ADULT IN ADULT CRIMINAL COURT IF YOU COMMIT ANOTHER FELONY OFFENSE AND YOU ARE FIFTEEN YEARS OF AGE OR OLDER.

2. YOU COULD BE TRIED AS AN ADULT IN ADULT CRIMINAL COURT IF YOU COMMIT ANOTHER FELONY OFFENSE WHEN YOU ARE AT LEAST FOURTEEN YEARS OF AGE.

3. YOU COULD BE INCARCERATED IN THE STATE DEPARTMENT OF CORRECTIONS IF YOU ARE CONVICTED AS AN ADULT IN ADULT CRIMINAL COURT.

F. The failure or inability of the court to provide the notices required under subsections C and E of this section does not preclude the use of the prior adjudications for any purpose otherwise permitted.

G. Except as provided in subsection S of this section, after considering the nature of the offense and the age, physical and mental condition and earning capacity of the juvenile, the court shall order the juvenile to pay a reasonable monetary assessment if the court determines that an assessment is in aid of rehabilitation. If the director of the department of juvenile corrections determines that enforcement of an order for monetary assessment as a term and condition of conditional liberty is not cost-effective, the director may require the youth to perform an equivalent amount of community restitution in lieu of the payment ordered as a condition of conditional liberty.

H. If a child is adjudicated incorrigible, the court may impose a monetary assessment on the child of not more than one-hundred-fifty dollars $150.

I. A juvenile who is charged with unlawful purchase, possession or consumption of spirituous liquor is subject to section 8-323. The monetary assessment for a conviction of unlawful purchase, possession or consumption of spirituous liquor by a juvenile shall not exceed five hundred dollars $500. The court of competent jurisdiction may order a monetary assessment or equivalent community restitution.

J. The court shall require the monetary assessment imposed under subsection G or H of this section on a juvenile who is not committed to the department of juvenile corrections to be satisfied in one or both of the following forms:
1. Monetary reimbursement by the juvenile in a lump sum or installment payments through the clerk of the superior court for appropriate distribution.

2. A program of work, not in conflict with regular schooling, to repair damage to the victim's property, to provide community restitution or to provide the juvenile with a job for wages. The court order for restitution or monetary assessment shall specify, according to the dispositional program, the amount of reimbursement and the portion of wages of either existing or provided work that is to be credited toward satisfaction of the restitution or assessment, or the nature of the work to be performed and the number of hours to be spent working. The number of hours to be spent working shall be set by the court based on the severity of the offense but shall not be less than sixteen hours.

K. If a juvenile is committed to the department of juvenile corrections, the court shall specify the amount of the monetary assessment imposed pursuant to subsection G or H of this section.

L. After considering the length of stay guidelines developed pursuant to section 41-2816, subsection C, the court may set forth in the order of commitment the minimum period during which the juvenile shall remain in secure care while in the custody of the department of juvenile corrections. When the court awards a juvenile to the department of juvenile corrections or an institution or agency, it shall transmit with the order of commitment copies of a diagnostic psychological evaluation and educational assessment if one has been administered, copies of the case report, all other psychological and medical reports, restitution orders, any request for postadjudication notice that has been submitted by a victim and any other documents or records pertaining to the case requested by the department of juvenile corrections or an institution or agency. The department shall not release a juvenile from secure care before the juvenile completes the length of stay determined by the court in the commitment order unless the county attorney in the county from which the juvenile was committed requests the committing court to reduce the length of stay. The department may temporarily escort the juvenile from secure care pursuant to section 41-2804, may release the juvenile from secure care without a further court order after the juvenile completes the length of stay determined by the court or may retain the juvenile in secure care for any period subsequent to the completion of the length of stay in accordance with the law.

M. Written notice of the release of any juvenile pursuant to subsection L of this section shall be made to any victim requesting notice, the juvenile court that committed the juvenile and the county attorney of the county from which the juvenile was committed.

N. Notwithstanding any law to the contrary, if a person is under the supervision of the court as an adjudicated delinquent juvenile at the time the person reaches eighteen years of age, treatment services may be provided until the person reaches twenty-one years of age if the court, the person and the state agree to the provision of the treatment and a motion to transfer the person pursuant to section 8-327 has not been filed or has been withdrawn. The court may terminate the provision
of treatment services after the person reaches eighteen years of age if the court determines that any of the following applies:

1. The person is not progressing toward treatment goals.
2. The person terminates treatment.
3. The person commits a new offense after reaching eighteen years of age.
4. Continued treatment is not required or is not in the best interests of the state or the person.

O. On the request of a victim of an act that may have involved significant exposure as defined in section 13-1415 or that if committed by an adult would be a sexual offense, the prosecuting attorney shall petition the adjudicating court to require that the juvenile be tested for the presence of the human immunodeficiency virus. If the victim is a minor the prosecuting attorney shall file this petition at the request of the victim's parent or guardian. If the act committed against a victim is an act that if committed by an adult would be a sexual offense or the court determines that sufficient evidence exists to indicate that significant exposure occurred, it shall order the department of juvenile corrections or the department of health services to test the juvenile pursuant to section 13-1415. Notwithstanding any law to the contrary, the department of juvenile corrections and the department of health services shall release the test results only to the victim, the delinquent juvenile, the delinquent juvenile's parent or guardian and a minor victim's parent or guardian and shall counsel them regarding the meaning and health implications of the results.

P. If a juvenile has been adjudicated delinquent for an offense that if committed by an adult would be an offense listed in section 41-1750, subsection C, the court shall provide the department of public safety Arizona automated fingerprint identification system established in section 41-2411 with the juvenile's ten-print fingerprints, personal identification data and other pertinent information. If a juvenile has been committed to the department of juvenile corrections the department shall provide the fingerprints and information required by this subsection to the Arizona automated fingerprint identification system. If the juvenile's fingerprints and information have been previously submitted to the Arizona automated fingerprint identification system the information is not required to be resubmitted.

Q. Access to fingerprint records submitted pursuant to subsection P of this section shall be limited to the administration of criminal justice as defined in section 41-1750. Dissemination of fingerprint information shall be limited to the name of the juvenile, juvenile case number, date of adjudication and court of adjudication.

R. If a juvenile is adjudicated delinquent for an offense that if committed by an adult would be a misdemeanor, the court may prohibit the juvenile from carrying or possessing a firearm while the juvenile is under the jurisdiction of the department of juvenile corrections or the juvenile court.
S. If a juvenile is adjudicated delinquent for a violation of section 13-1602, subsection A, paragraph 5, the court shall order the juvenile to pay a fine of at least $300 but not more than one thousand dollars $1,000. Any restitution ordered shall be paid in accordance with section 13-809, subsection A. The court may order the juvenile to perform community restitution in lieu of the payment for all or part of the fine if it is in the best interests of the juvenile. The amount of community restitution shall be equivalent to the amount of the fine by crediting any service performed at a rate of [ten dollars] per hour. THE COURT SHALL CREDIT COMMUNITY RESTITUTION PERFORMED AT A RATE THAT IS EQUAL TO THE MINIMUM WAGE PRESCRIBED BY SECTION 23-363, SUBSECTIONS A AND B, ROUNDED UP TO THE NEAREST DOLLAR. If the juvenile is convicted of a second or subsequent violation of section 13-1602, subsection A, paragraph 5 and is ordered to perform community restitution, the court may order the parent or guardian of the juvenile to assist the juvenile in the performance of the community restitution if both of the following apply:

1. The parent or guardian had knowledge that the juvenile intended to engage in or was engaging in the conduct that gave rise to the violation.

2. The parent or guardian knowingly provided the juvenile with the means to engage in the conduct that gave rise to the violation.

T. If a juvenile is adjudicated delinquent for an offense involving the purchase, possession or consumption of spirituous liquor or a violation of title 13, chapter 34 and is placed on juvenile probation, the court may order the juvenile to submit to random drug and alcohol testing at least two times per week as a condition of probation.

U. A juvenile who is adjudicated delinquent for an offense involving the purchase, possession or consumption of spirituous liquor or a violation of title 13, chapter 34, who is placed on juvenile probation and who is found to have consumed any spirituous liquor or to have used any drug listed in section 13-3401 while on probation is in violation of the juvenile’s probation. If a juvenile commits a third or subsequent violation of a condition of probation as prescribed by this subsection, the juvenile shall be brought before the juvenile court and, if the allegations are proven, the court shall either revoke probation and hold a disposition hearing pursuant to this section or select additional conditions of probation as it deems necessary, including detention, global position system monitoring, additional alcohol or drug treatment, community restitution, additional drug or alcohol testing or a monetary assessment.

W. U. If jurisdiction of the juvenile court is retained pursuant to section 8-202, subsection H, the court shall order continued probation supervision and treatment services until a child who has been adjudicated a delinquent juvenile reaches nineteen years of age or until otherwise terminated by the court. The court may terminate continued probation supervision or treatment services before the child’s nineteenth birthday if the court determines that continued probation supervision or treatment is not required or is not in the best interests of the juvenile or the
state or the juvenile commits a criminal offense after reaching eighteen years of age.

V. For the purposes of this section:

1. "First time felony juvenile offender" means a juvenile who is adjudicated delinquent for an offense that would be a felony offense if committed by an adult.

2. "Repeat felony juvenile offender" means a juvenile to whom both of the following apply:
   (a) Is adjudicated delinquent for an offense that would be a felony offense if committed by an adult.
   (b) Previously has been adjudicated a first time felony juvenile offender.

3. "Sexual offense" means oral sexual contact, sexual contact or sexual intercourse as defined in section 13-1401.
EXPLANATION OF BLEND
SECTION 12-109

Laws 2021, Chapters 138 and 403

Laws 2021, Ch. 138, section 1  Effective September 29, 2021
Laws 2021, Ch. 403, section 2  Effective September 29, 2021

Explanation

Since these two enactments are compatible, the Laws 2021, Ch. 138 and Ch. 403 text changes to section 12-109 are blended in the form shown on the following page.
12-109. Rules and administrative orders of pleading, practice and procedure; adoption; prohibitions; electronic signatures; distribution

A. The supreme court, by rules promulgated from time to time

OR ADMINISTRATIVE ORDERS, shall regulate pleading, practice and

procedure in judicial proceedings in all courts of the THIS state for
the purpose of simplifying such TO SIMPLIFY pleading, practice and
procedure and promoting PROMOTE speedy determination of litigation upon
its merits.

B. The rules AND ADMINISTRATIVE ORDERS shall not DO ANY OF THE
FOLLOWING:

1. Abridge, enlarge or modify substantive rights of a litigant.
2. ABRIDGE, ENLARGE OR MODIFY STATUTORY, CONTRACTUAL OR COMMON
LAW REAL PROPERTY RIGHTS OR QUESTIONS OF SUBSTANTIVE LAW.

C. THE COURT MAY ALLOW DOCUMENTS THAT REQUIRE A SWORN WRITTEN
DECLARATION, VERIFICATION, CERTIFICATE, STATEMENT, OATH OR AFFIDAVIT TO
BE SIGNED WITH AN ELECTRONIC SIGNATURE.

D. The supreme court shall print and distribute the rules AND
ADMINISTRATIVE ORDERS to all members of the state bar and to all other
persons who apply.

E. The rules shall not become effective until sixty days after distribution.
EXPLANATION OF BLEND
SECTION 12-910

Laws 2021, Chapters 281 and 316

Laws 2021, Ch. 281, section 1  Effective September 29, 2021
Laws 2021, Ch. 316, section 1  Effective September 29, 2021

Explanation

Since these two enactments are compatible, the Laws 2021, Ch. 281 and Ch. 316 text changes to section 12-910 are blended in the form shown on the following pages.
12-910. Scope of review

A. An action to review a final administrative decision shall be heard and determined with convenient speed. If requested by a party to an action within thirty days after filing a notice of appeal, the court shall hold an evidentiary hearing, including testimony and argument, to the extent necessary to make the determination required by subsection F of this section. The court may hear testimony from witnesses who testified at the administrative hearing and witnesses who were not called to testify at the administrative hearing.

B. Relevant and admissible exhibits and testimony that were not offered during the administrative hearing shall be admitted, and objections that a party failed to make to evidence offered at the administrative hearing shall be considered, unless either of the following is true:

1. The exhibit, testimony or objection was withheld for purposes of delay, harassment or other improper purpose.

2. Allowing admission of the exhibit or testimony or consideration of the objection would cause substantial prejudice to another party.

C. For review of final administrative decisions of agencies that are exempt from sections 41-1092.03, through 41-1092.04, 41-1092.05, 41-1092.06, 41-1092.07, 41-1092.08, 41-1092.09, 41-1092.10[;], and 41-1092.11, pursuant to section 41-1092.02, the trial shall be de novo if trial de novo is demanded in the notice of appeal or motion of an appellee other than the agency and if a hearing was not held by the agency or the proceedings before the agency were not stenographically reported or mechanically recorded so that a transcript might be made. On demand of any party, if a trial de novo is available under this section, it may be with a jury, except that a trial of an administrative decision under section 25-522 shall be to the court.

D. FOR REVIEW OF FINAL ADMINISTRATIVE DECISIONS OF AGENCIES THAT REGULATE A PROFESSION OR OCCUPATION PURSUANT TO TITLE 32, TITLE 36, CHAPTER 4, ARTICLE 6, TITLE 36, CHAPTER 6, ARTICLE 7 OR TITLE 36, CHAPTER 17, THE TRIAL SHALL BE DE NOVO IF TRIAL DE NOVO IS DEManded IN THE NOTICE OF APPEAL OR MOTION OF AN APPELLEE OTHER THAN THE AGENCY.

E. The record in the superior court shall consist of the record of the administrative proceeding, and the record of any evidentiary hearing, or the record of the trial de novo.

F. After reviewing the administrative record and supplementing evidence presented at the evidentiary hearing, the court may affirm, reverse, modify or vacate and remand the agency action. The court shall affirm the agency action unless the court concludes that the agency's action is contrary to law, is not supported by substantial
evidence, is arbitrary and capricious or is an abuse of discretion. In a proceeding brought by or against the regulated party, the court shall decide all questions of law, including the interpretation of a constitutional or statutory provision or a rule adopted by an agency, without deference to any previous determination that may have been made on the question by the agency. IN A PROCEEDING BROUGHT BY OR AGAINST THE REGULATED PARTY, THE COURT SHALL DECIDE ALL QUESTIONS OF FACT WITHOUT DEFERENCE TO ANY PREVIOUS DETERMINATION THAT MAY HAVE BEEN MADE ON THE QUESTION BY THE AGENCY. Notwithstanding any other law, this subsection applies in any action for judicial review of any agency action that is authorized by law.

G. Notwithstanding subsection F of this section, if the action arises out of title 20, chapter 15, article 2, the court shall affirm the agency action unless after reviewing the administrative record and supplementing evidence presented at the evidentiary hearing the court concludes that the action is not supported by substantial evidence, is contrary to law, is arbitrary and capricious or is an abuse of discretion.

H. This section does not apply to any agency action by an agency that is created pursuant to article XV, Constitution of Arizona TITLE 40, CHAPTER 2, ARTICLE 5 OR 6.2.
EXPLANATION OF BLEND
SECTION 12-1809

Laws 2021, Chapters 258 and 273

Laws 2021, Ch. 258, section 1  Effective September 29, 2021
Laws 2021, Ch. 273, section 1  Effective September 29, 2021

Explanation

Since these two enactments are compatible, the Laws 2021, Ch. 258 and Ch. 273 text changes to section 12-1809 are blended in the form shown on the following pages.
12-1809. Injunction against harassment: petition; venue; fees; notices; enforcement; definition

A. A person may file a verified petition with a magistrate, justice of the peace or superior court judge for an injunction prohibiting harassment. If the person is a minor, the parent, legal guardian or person who has legal custody of the minor shall file the petition unless the court determines otherwise. The petition shall name the parent, guardian or custodian as the plaintiff, and the minor is a specifically designated person for the purposes of subsection F of this section. If a person is either temporarily or permanently unable to request an injunction, a third party may request an injunction on behalf of the plaintiff. After the request, the judicial officer shall determine if the third party is an appropriate requesting party for the plaintiff. Notwithstanding the location of the plaintiff or defendant, any court in this state may issue or enforce an injunction against harassment.

B. An injunction against harassment shall not be granted:
   1. Unless the party who requests the injunction files a written verified petition for injunction.
   2. Against a person who is less than twelve years of age unless the injunction is granted by the juvenile division of the superior court.
   3. Against more than one defendant.

C. The petition shall state all of the following:
   1. The name of the plaintiff. The plaintiff's address and contact information shall be disclosed to the court for purposes of service and notification. The address and contact information shall not be listed on the petition. Whether or not the court issues an injunction against harassment, the plaintiff's address and contact information shall be maintained in a separate document or automated database and is not subject to release or disclosure by the court or any form of public access except as ordered by the court.
   2. The name and address, if known, of the defendant.
   3. A specific statement showing events and dates of the acts constituting the alleged harassment.
   4. The name of the court in which there was or is any prior or pending proceeding or order concerning the conduct that is sought to be restrained.
   5. The relief requested.
   6. A fee shall not be charged for filing a petition under this section. Fees for service of process may be deferred or waived under any rule or law applicable to civil actions, except that fees for service of process shall not be charged if the petition arises out of a dating relationship or sexual violence as defined in section 23-371. The court shall advise a plaintiff that the plaintiff may be eligible for the deferral or waiver of these fees at the time the plaintiff files a petition. The court shall not require the plaintiff to perform community restitution as a
condition of the waiver or deferral of fees for service of process. A law enforcement agency or constable shall not require the advance payment of fees for service of process of injunctions against harassment. If the court does not waive the fees, the serving agency may assess the actual fees against the plaintiff. On request of the plaintiff, an injunction against harassment that is issued by a municipal court may be served by the police agency for that city if the defendant can be served within the city. If the defendant cannot be served within the city, the police agency in the city in which the defendant can be served may serve the injunction. On request of the plaintiff, each injunction against harassment that is issued by a justice of the peace shall be served by the constable for that jurisdiction if the defendant can be served within the jurisdiction. If the defendant cannot be served within that jurisdiction, the constable in the jurisdiction in which the defendant can be served shall serve the injunction. On request of the plaintiff, an injunction against harassment that is issued by a superior court judge or commissioner may be served by the sheriff of the county. If the defendant cannot be served within that jurisdiction, the sheriff in the jurisdiction in which the defendant can be served may serve the order. The court shall provide, without charge, forms for purposes of this section for assisting parties without counsel.

E. The court shall review the petition, any other pleadings on file and any evidence offered by the plaintiff, including any evidence of harassment by electronic contact or communication, to determine whether the injunction requested should issue without a further hearing. Rules 65(a)(1) and 65(e) of the Arizona rules of civil procedure do not apply to injunctions that are requested pursuant to this section. If the court finds reasonable evidence of harassment of the plaintiff by the defendant during the year preceding the filing of the petition or that good cause exists to believe that great or irreparable harm would result to the plaintiff if the injunction is not granted before the defendant or the defendant's attorney can be heard in opposition and the court finds specific facts attesting to the plaintiff's efforts to give notice to the defendant or reasons supporting the plaintiff's claim that notice should not be given, the court shall issue an injunction as provided in subsection F of this section. If the court denies the requested relief, it may schedule a further hearing within ten days with reasonable notice to the defendant. For the purposes of determining the one year period, any time that the defendant has been incarcerated or out of this state shall not be counted.

F. If the court issues an injunction, the court may do any of the following:
   1. Enjoin the defendant from committing a violation of one or more acts of harassment.
   2. Restrain the defendant from contacting the plaintiff or other specifically designated persons and from coming near the residence, place of employment or school of the plaintiff or other specifically designated locations or persons.
   3. Grant relief necessary for the protection of the alleged victim and other specifically designated persons proper under the circumstances.
G. The court shall not grant a mutual injunction against harassment. If opposing parties separately file verified petitions for an injunction against harassment, the courts after consultation between the judicial officers involved may consolidate the petitions of the opposing parties for hearing. This does not prohibit a court from issuing cross injunctions against harassment.

H. At any time during the period during which the injunction is in effect, the defendant is entitled to one hearing on written request. No fee may be charged for requesting a hearing. A hearing that is requested by a defendant shall be held within ten days from the date requested unless the court finds compelling reasons to continue the hearing. The hearing shall be held at the earliest possible time. An ex parte injunction that is issued under this section shall state on its face that the defendant is entitled to a hearing on written request and shall include the name and address of the judicial office where the request may be filed. After the hearing, the court may modify, quash or continue the injunction.

I. The injunction shall include the following statement:

Warning

This is an official court order. If you disobey this order, you may be arrested and prosecuted for the crime of interfering with judicial proceedings and any other crime you may have committed in disobeying this order.

J. An injunction that is not served on the defendant within one year after the date that the injunction is issued expires. The injunction is effective on the defendant on service of a copy of the injunction and petition and expires one year after service on the defendant. A modified injunction is effective upon service and expires one year after service of the initial injunction and petition.

K. A supplemental information form that is used solely for the purposes of service of process on the defendant and that contains information provided by the plaintiff is confidential.

L. Each affidavit, declaration, acceptance or return of service shall be filed as soon as practicable but not later than seventy-two hours, excluding weekends and holidays, with the clerk of the issuing court or as otherwise required by court rule. This filing shall be completed in person, electronically or by fax.

M. THE SUPREME COURT SHALL MAINTAIN A CENTRAL REPOSITORY FOR INJUNCTIONS. Within twenty-four hours after the affidavit, declaration, acceptance or return of service has been filed, excluding weekends and holidays, the court from which the injunction or any modified injunction was issued shall ENTER THE ORDER AND PROOF OF SERVICE INTO THE SUPREME COURT'S CENTRAL REPOSITORY FOR INJUNCTIONS. THE SUPREME COURT SHALL register the injunction with the national crime information center. The supreme court shall maintain a central repository for injunctions so that the existence and validity of the injunctions can be easily verified. The effectiveness of an injunction does not depend on its registration, and for enforcement purposes pursuant to section 13-2810, a copy of an injunction, whether or not registered, is presumed to be a valid existing order of the
court for a period of one year from the date of service of the injunction on the defendant.

M. N. A peace officer, with or without a warrant, may arrest a person if the peace officer has probable cause to believe that the person has violated section 13-2810 by disobeying or resisting an injunction that is issued pursuant to this section, whether or not the violation occurred in the presence of the officer. The provisions for release under section 13-3903 do not apply to an arrest made pursuant to this subsection. A person who is arrested pursuant to this subsection may be released from custody in accordance with the Arizona rules of criminal procedure or any other applicable statute. An order for release, with or without an appearance bond, shall include pretrial release conditions that are necessary to provide for the protection of the alleged victim and other specifically designated persons and may provide for additional conditions that the court deems appropriate, including participation in any counseling programs available to the defendant.

N. O. If a peace officer responds to a call alleging that harassment has been or may be committed, the officer shall inform in writing any alleged or potential victim of the procedures and resources available for the protection of the victim including:

1. An injunction pursuant to this section.
2. The emergency telephone number for the local police agency.
3. Telephone numbers for emergency services in the local community.

O. P. The remedies provided in this section for enforcement of the orders of the court are in addition to any other civil and criminal remedies available. The municipal court and the justice court may hear and decide all matters arising pursuant to this section. After a hearing with notice to the affected party, the court may enter an order requiring any party to pay the costs of the action, including reasonable attorney fees, if any. An order that is entered by a justice court or municipal court after a hearing pursuant to this section may be appealed to the superior court as provided in title 22, chapter 2, article 4, section 22-425, subsection B and the superior court rules of civil appellate procedure without regard to an amount in controversy. No fee may be charged to either party for filing an appeal.

P. Q. A peace officer who makes an arrest pursuant to this section is not civilly or criminally liable for the arrest if the officer acts on probable cause and without malice. A peace officer is not civilly liable for noncompliance with subsection N. O of this section.

R. R. This section does not apply to preliminary injunctions issued pursuant to an action for dissolution of marriage or legal separation or for protective orders against domestic violence.

S. S. In addition to the persons who are authorized to serve process pursuant to rule 4(d), Arizona rules of civil procedure, a peace officer or a correctional officer as defined in section 41-1661 who is acting in the officer's official capacity may serve an injunction against harassment that is issued pursuant to this section.
§ 1. For the purposes of this section, "harassment":

(a) A series of acts over any period of time that is directed at a specific person and that would cause a reasonable person to be seriously alarmed, annoyed or harassed and the conduct in fact seriously alarms, annoys or harasses the person and serves no legitimate purpose.

(b) One or more acts of sexual violence as defined in section 23-371.

(c) Any contact if the person is the victim of a crime that was committed by the defendant. For the purposes of this subdivision, "crime" means a conviction for an offense, whether completed or preparatory, that is a dangerous offense as defined in section 13-105, a serious offense or violent or aggravated felony as defined in section 13-706 or any offense in title 13, chapter 14 or 35.1.

2. Includes unlawful picketing, trespassory assembly, unlawful mass assembly, concerted interference with lawful exercise of business activity and engaging in a secondary boycott as defined in section 23-1321 and defamation in violation of section 23-1325.
EXPLANATION OF BLEND
SECTION 13-905

Laws 2021, Chapters 159 and 209

Laws 2021, Ch. 159, section 1  Effective September 29, 2021
Laws 2021, Ch. 209, section 1  Effective September 29, 2021

Explanation

Since these two enactments are compatible, the Laws 2021, Ch. 159 and Ch. 209 text changes to section 13-905 are blended in the form shown on the following pages.
13-905. Setting aside judgment of convicted person on discharge; application; release from disabilities; certificate of second chance; firearm possession; exceptions

A. Except as provided in subsection K–N of this section, every person convicted of a criminal offense, on fulfillment of the conditions of probation or sentence and discharge by the court, may apply to the court to have the judgment of guilt set aside. The convicted person shall be informed of this right at the time of sentencing. THE COURT MAY ISSUE AN ORDER THAT INCLUDES A CERTIFICATE OF SECOND CHANCE TO A PERSON WHOSE JUDGMENT OF GUILT IS SET ASIDE PURSUANT TO SUBSECTION K OR L OF THIS SECTION.

B. The person or the person's attorney or probation officer may apply to set aside the judgment. The clerk of the court may not charge a filing fee for an application to have a judgment of guilt set aside.

C. The court shall consider the following factors when determining whether to set aside the conviction:

1. The nature and circumstances of the offense that the conviction is based on.
2. The applicant's compliance with the conditions of probation, the sentence imposed and any state department of corrections' rules or regulations, if applicable.
3. Any prior or subsequent convictions.
4. The victim's input and the status of victim restitution, if any.
5. The length of time that has elapsed since the completion of the applicant's sentence.
6. The applicant's age at the time of the conviction.
7. Any other factor that is relevant to the application.

D. If the application is granted, the court shall set aside the judgment of guilt, dismiss the complaint, information or indictment and order that the person be released from all penalties and disabilities resulting from the conviction except those imposed by:

1. The department of transportation pursuant to section 28-3304, 28-3305, 28-3306, 28-3307, 28-3308, 28-3312 or 28-3319.
2. The game and fish commission pursuant to section 17-314 or 17-340.
3. A conviction that is set aside may be:
   1. Used as a conviction if the conviction would be admissible had it not been set aside.
   2. Alleged as an element of an offense.
   3. Used as a prior conviction.
   4. Plead and proved in any subsequent prosecution of the person by this state or any political subdivision of this state for any offense.
5. Used by the department of transportation in enforcing section 28-3304, 28-3305, 28-3306, 28-3307, 28-3308, 28-3312 or 28-3319 as if the judgment of guilt had not been set aside.

F. The clerk of the court must notify the department of public safety if a conviction is set aside. The department of public safety must update the person's criminal history with an annotation that the conviction has been set aside AND, IF APPLICABLE, A CERTIFICATE OF SECOND CHANCE HAS BEEN ISSUED but may not redact or remove any part of the person's record.

G. This section does not:
1. Require a law enforcement agency to redact or remove a record or information from the record of a person whose conviction is set aside.
2. Preclude the department of public safety or the board of fingerprinting from considering a conviction that has been set aside when evaluating an application for a fingerprint clearance card pursuant to section 41-1758.03 or 41-1758.07.

H. IF THE STATE OR THE VICTIM OBJECTS TO AN APPLICATION TO HAVE A JUDGMENT OF GUILT SET ASIDE, AN OBJECTION TO THE APPLICATION MUST BE FILED WITHIN THIRTY DAYS AFTER THE APPLICATION IS FILED WITH THE COURT. IF AN OBJECTION IS FILED, THE COURT MAY SET A HEARING.

I. 1. If the court denies an application to have a judgment of guilt set aside, the court shall state its reasons for the denial in writing and on the record.

J. A victim has the right to be present and be heard at any proceeding in which the defendant has filed an application to have a judgment of guilt set aside pursuant to this section. If the victim has made a request for postconviction notice, the attorney for the state shall provide the victim with notice of the defendant's application, WHETHER THE PERSON IS ELIGIBLE FOR A CERTIFICATE OF SECOND CHANCE and of the rights provided to the victim in this section.


1. UNLESS SPECIFICALLY EXCLUDED BY THIS SECTION, RELEASES THE PERSON FROM ALL BARRIERS AND DISABILITIES IN OBTAINING AN OCCUPATIONAL LICENSE ISSUED UNDER TITLE 32 THAT RESULTED FROM THE CONVICTION IF THE PERSON IS OTHERWISE QUALIFIED.

2. PROVIDES AN EMPLOYER OF THE PERSON WITH ALL OF THE PROTECTIONS THAT ARE PROVIDED PURSUANT TO SECTION 12-558.03.

3. PROVIDES ANOTHER PERSON OR AN ENTITY THAT PROVIDES HOUSING TO THE PERSON WITH ALL OF THE PROTECTIONS LIMITING THE INTRODUCTION OF EVIDENCE THAT ARE PROVIDED TO AN EMPLOYER PURSUANT TO SECTION 12-558.03, SUBSECTION B.
4. IS NOT A RECOMMENDATION OR SPONSORSHIP FOR OR A PROMOTION OF THE PERSON WHO POSSESSES THE CERTIFICATE OF SECOND CHANCE WHEN APPLYING FOR AN OCCUPATIONAL LICENSE, EMPLOYMENT OR HOUSING.


M. Notwithstanding section 13-910, if a conviction is set aside, the person's right to possess a firearm is restored. This subsection does not apply to a person who was convicted of a serious offense as defined in section 13-706.

N. This section does not apply to a person who was convicted of any of the following:

1. A dangerous offense.
2. An offense for which the person is required or ordered by the court to register pursuant to section 13-3821.
3. An offense for which there has been a finding of sexual motivation pursuant to section 13-118.
4. A felony offense in which the victim is a minor under fifteen years of age.

5. An offense in violation of section 28-3473, any local ordinance relating to stopping, standing or operation of a vehicle or title 28, chapter 3, except a violation of section 28-693 or any local ordinance relating to the same subject matter as section 28-693.
EXPLANATION OF BLEND  
SECTION 13-2503

Laws 2021, Chapters 361 and 390

Laws 2021, Ch. 361, section 1  Effective September 29, 2021
Laws 2021, Ch. 390, section 6  Effective September 29, 2021

Explanation

Since these two enactments are compatible, the Laws 2021, Ch. 361 and Ch. 390 text changes to section 13-2503 are blended in the form shown on the following page.
13-2503. Escape in the second degree; classification

A. A person commits escape in the second degree by knowingly:
   1. Escaping or attempting to escape from a juvenile secure care facility; OR a juvenile detention facility or an adult correctional facility; or
   2. Escaping or attempting to escape from custody imposed as a result of having been arrested for, charged with or found guilty of a felony; or
   3. Escaping or attempting to escape from the Arizona state hospital if the person was committed to the hospital for treatment pursuant to section 8-291.09, 13-502, 13-3994, 13-3992, 13-4507, 13-4512 or 31-226 or rule 11 of the Arizona rules of criminal procedure; or
   4. Escaping or attempting to escape from the Arizona state hospital if the person was committed to the hospital for treatment pursuant to title 36, chapter 37.
   5. ATTEMPTING TO ESCAPE FROM AN ADULT CORRECTIONAL FACILITY.

B. Escape in the second degree pursuant to subsection A, paragraph 1, 2, or 4 OR 5 of this section is a class 5 felony, and the sentence imposed for a violation of this section shall run consecutively to any sentence of imprisonment for which the person was confined or to any term of community supervision for the sentence including probation, parole, work furlough or any other release. Escape in the second degree pursuant to subsection A, paragraph 3 of this section is a class 2 misdemeanor.
EXPLANATION OF BLEND
SECTION 13-2916

Laws 2021, Chapters 295 and 376

Laws 2021, Ch. 295, section 1  Effective September 29, 2021
Laws 2021, Ch. 376, section 1  Effective September 29, 2021

Explanation

Since these two enactments are compatible, the Laws 2021, Ch. 295 and Ch. 376 text changes to section 13-2916 are blended in the form shown on the following pages.
13-2916. Use of an electronic communication to terrify, intimidate, threaten or harass; unlawful use of electronic communication device; applicability; classification; definitions

A. It is unlawful for any person, with intent to KNOWINGLY terrify, intimidate, threaten or harass a specific person or persons, by doing, to do any of the following:

1. Direct DIRECTING any obscene, lewd or profane language or suggest SUGGESTING any lewd or lascivious act to the person in an electronic communication.

2. Threaten THREATENING to inflict physical harm TO property in any electronic communication.

3. Otherwise DISTURB DISTURBING by repeated anonymous, unwanted or unsolicited electronic communications the peace, quiet or right of privacy of the person at the place where the communications were received.

4. WITHOUT THE PERSON'S CONSENT AND FOR THE PURPOSE OF IMMINENTLY CAUSING THE PERSON UNWANTED PHYSICAL CONTACT, INJURY OR HARASSMENT BY A THIRD PARTY, USE AN ELECTRONIC COMMUNICATION DEVICE TO ELECTRONICALLY DISTRIBUTE, PUBLISH, EMAIL, HYPERLINK OR MAKE AVAILABLE FOR DOWNLOADING THE PERSON'S PERSONAL IDENTIFYING INFORMATION, INCLUDING A DIGITAL IMAGE OF THE PERSON, AND THE USE DOES IN FACT INCITE OR PRODUCE THAT UNWANTED PHYSICAL CONTACT, INJURY OR HARASSMENT. THIS PARAGRAPH ALSO APPLIES TO A PERSON WHO INTENDS TO TERRIFY, INTIMIDATE, THREATEN OR HARASS AN IMMEDIATE FAMILY MEMBER OF THE PERSON WHOSE PERSONAL IDENTIFYING INFORMATION IS USED.

B. Any offense committed by use of an electronic communication as set forth in VIOLATION OF this section is deemed to have been committed at either the place where the communications originated or at the place where the communications were received.

C. This section does not apply to:

1. Constitutionally protected speech or activity or to any other activity authorized by law.

2. AN INTERACTIVE COMPUTER SERVICE, AS DEFINED IN 47 UNITED STATES CODE SECTION 230(f)(2), OR TO AN INFORMATION SERVICE OR TELECOMMUNICATIONS SERVICE, AS DEFINED IN 47 UNITED STATES CODE SECTION 153, FOR CONTENT THAT IS PROVIDED BY ANOTHER PERSON.

D. Any A person who violates this section is guilty of a class 1 misdemeanor.

E. For the purposes of this section:

1. "Electronic communication" means A SOCIAL MEDIA POST, a wire line, cable, wireless or cellular telephone call, a text message, an instant message or electronic mail.
2. "ELECTRONIC COMMUNICATION DEVICE" INCLUDES A TELEPHONE, MOBILE TELEPHONE, COMPUTER, INTERNET WEBSITE, INTERNET TELEPHONE, HYBRID CELLULAR, INTERNET OR WIRELESS DEVICE, PERSONAL DIGITAL ASSISTANT, VIDEO RECORDER, FAX MACHINE OR PAGER.

3. "HARASSMENT" MEANS A KNOWING AND WILFUL COURSE OF CONDUCT THAT IS DIRECTED AT A SPECIFIC PERSON, THAT A REASONABLE PERSON WOULD CONSIDER AS SERIOUSLY ALARMING, SERIOUSLY DISRUPTIVE, SERIOUSLY TORMENTING OR SERIOUSLY TERRORIZING THE PERSON AND THAT SERVES NO LEGITIMATE PURPOSE.

4. "PERSONAL IDENTIFYING INFORMATION":
   (a) MEANS INFORMATION THAT WOULD ALLOW THE IDENTIFIED PERSON TO BE LOCATED, CONTACTED OR HARASSED.
   (b) INCLUDES THE PERSON'S HOME ADDRESS, WORK ADDRESS, PHONE NUMBER, EMAIL ADDRESS OR OTHER CONTACT INFORMATION THAT WOULD ALLOW THE IDENTIFIED PERSON TO BE LOCATED, CONTACTED OR HARASSED.

5. "SOCIAL MEDIA POST" MEANS A SOCIAL MEDIA COMMUNICATION THAT IS KNOWINGLY INTENDED TO COMMUNICATE TO A SPECIFIC PERSON OR PERSONS IN VIOLATION OF SUBSECTION A OF THIS SECTION.
EXPLANATION OF BLEND
SECTION 15-203

Laws 2021, Chapters 2, 119, 289, 404 and 435

Laws 2021, Ch. 2, section 2  Effective September 29, 2021
Laws 2021, Ch. 119, section 4  Effective September 29, 2021
Laws 2021, Ch. 289, section 1  Effective September 29, 2021
Laws 2021, Ch. 404, section 5  Effective September 29, 2021
(as amended by Laws 2021, Ch. 2, section 2)
Laws 2021, Ch. 435, section 7  Effective September 29, 2021

Explanation

Since these five enactments are compatible, the Laws 2021, Ch. 2, Ch. 119, Ch. 289, Ch. 404 and Ch. 435 text changes to section 15-203 are blended in the form shown on the following pages.
BLENDF OF SECTION 15-203
Laws 2021, Chapters 2, 119, 289, 404 and 435

15-203. Powers and duties: definition
A. The state board of education shall:
1. Exercise general supervision over and regulate the conduct of the public school system and adopt any rules and policies it deems necessary to accomplish this purpose.
2. Keep a record of its proceedings.
4. Determine the policy and work undertaken by it.
5. Subject to title 41, chapter 4, article 4, employ staff.
6. Prescribe and supervise the duties of its employees pursuant to title 41, chapter 4, article 4, if not otherwise prescribed by statute.
7. Delegate to the superintendent of public instruction the execution of board policies and rules.
8. Recommend to the legislature changes or additions to the statutes pertaining to schools.
9. Prepare, publish and distribute reports concerning the educational welfare of this state.
10. Prepare a budget for expenditures necessary for proper maintenance of the board and accomplishment of its purposes and present the budget to the legislature.
11. Aid in the enforcement of laws relating to schools.
12. Prescribe a minimum course of study in the common schools, minimum competency requirements for the promotion of pupils from the third grade and minimum course of study and competency requirements for the promotion of pupils from the eighth grade. The state board of education shall prepare a fiscal impact statement of any proposed changes to the minimum course of study or competency requirements and, on completion, shall send a copy to the director of the joint legislative budget committee and the executive director of the school facilities board DIVISION WITHIN THE DEPARTMENT OF ADMINISTRATION. The state board of education shall not adopt any changes in the minimum course of study or competency requirements in effect on July 1, 1998 that will have a fiscal impact on school capital costs.

13. Prescribe minimum course of study and competency requirements for the graduation of pupils from high school. The state board of education shall prepare a fiscal impact statement of any proposed changes to the minimum course of study or competency requirements and, on completion, shall send a copy to the director of the joint legislative budget committee and the executive director of the school facilities board DIVISION WITHIN THE DEPARTMENT OF ADMINISTRATION. The state board of education shall not adopt any changes in the minimum course of study or competency requirements in effect on July 1, 1998 that will have a fiscal impact on school capital costs.
14. Pursuant to section 15-501.01, supervise and control the certification of persons engaged in instructional work directly as any classroom, laboratory or other teacher or indirectly as a supervisory teacher, speech therapist, principal or superintendent in a school district, including school district preschool programs, or any other educational institution below the community college, college or university level, and prescribe rules for certification.

15. Adopt a list of approved tests for determining special education assistance to gifted pupils as defined in and as provided in chapter 7, article 4.1 of this title. The adopted tests shall provide separate scores for quantitative reasoning, verbal reasoning and nonverbal reasoning and shall be capable of providing reliable and valid scores at the highest ranges of the score distribution.

16. Adopt rules governing the methods for the administration of all proficiency examinations.

17. Adopt proficiency examinations for its use and determine the passing score for the proficiency examinations.

18. Include within its budget the cost of contracting for the purchase, distribution and scoring of the examinations as provided in paragraphs 16 and 17 of this subsection.

19. Supervise and control the qualifications of professional nonteaching school personnel and prescribe standards relating to qualifications. The standards shall not require the business manager of a school district to obtain certification from the state board of education.

20. Impose such disciplinary action, including DISCIPLINARY ACTION PURSUANT TO SECTION 15-505 OR the issuance of a letter of censure, suspension, suspension with conditions or revocation of a certificate, on a finding of immoral or unprofessional conduct.

21. Establish an assessment, data gathering and reporting system for pupil performance as prescribed in chapter 7, article 3 of this title, including qualifying examinations for the college credit by examination incentive program pursuant to section 15-249.06.

22. Adopt a rule to promote braille literacy pursuant to section 15-214.

23. Adopt rules prescribing procedures for the investigation by the department of the STATE BOARD of education of TO INVESTIGATE every written complaint alleging that a certificated person, A PERSON SEEKING CERTIFICATION OR A NONCERTIFICATED PERSON has engaged in immoral OR UNPROFESSIONAL conduct.

24. For purposes of federal law, serve as the state board for vocational and technological education and meet at least four times each year solely to execute the powers and duties of the state board for vocational and technological education.

25. Develop and maintain a handbook for use in the schools of this state that provides guidance for the teaching of moral, civic and ethical education. The handbook shall promote existing curriculum frameworks and shall encourage school districts to recognize moral, civic and ethical values within instructional and programmatic educational development.
programs for the general purpose of instilling character and ethical principles in pupils in kindergarten programs and grades one through twelve.

26. Require pupils to recite the following passage from the declaration of independence for pupils in grades four through six at the commencement of the first class of the day in the schools, except that a pupil shall not be required to participate if the pupil or the pupil's parent or guardian objects:

   We hold these truths to be self-evident, that all men are created equal, that they are endowed by their creator with certain unalienable rights, that among these are life, liberty and the pursuit of happiness. That to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed.

27. Adopt rules that provide for certification reciprocity pursuant to section 15-501.01.

28. Adopt rules that provide for the presentation of an honorary high school diploma to a person who has never obtained a high school diploma and who meets both of the following requirements:
   (a) Currently resides in this state.
   (b) Provides documented evidence from the department of veterans' services that the person enlisted in the armed forces of the United States and served in World War I, World War II, the Korean conflict or the Vietnam conflict.

29. Cooperate with the Arizona-Mexico commission in the governor's office and with researchers at universities in this state to collect data and conduct projects in the United States and Mexico on issues that are within the scope of the duties of the department of education and that relate to quality of life, trade and economic development in this state in a manner that will help the Arizona-Mexico commission to assess and enhance the economic competitiveness of this state and of the Arizona-Mexico region.

30. Adopt rules to define and provide guidance to schools as to the activities that would constitute immoral or unprofessional conduct of certificated AND NONCERTIFICATED persons.

31. Adopt guidelines to encourage pupils in grades nine, ten, eleven and twelve to volunteer for twenty hours of community service before graduation from high school. A school district that complies with the guidelines adopted pursuant to this paragraph is not liable for damages resulting from a pupil's participation in community service unless the school district is found to have demonstrated wanton or reckless disregard for the safety of the pupil and other participants in community service. For the purposes of this paragraph, 'community service' may include service learning. The guidelines shall include the following:
   (a) A list of the general categories in which community service may be performed.
   (b) A description of the methods by which community service will be monitored.
   (c) A consideration of risk assessment for community service projects.
(d) Orientation and notification procedures of community service opportunities for pupils entering grade nine, including the development of a notification form. The notification form shall be signed by the pupil and the pupil's parent or guardian, except that a pupil shall not be required to participate in community service if the parent or guardian notifies the principal of the pupil's school in writing that the parent or guardian does not wish the pupil to participate in community service.

(e) Procedures for a pupil in grade nine to prepare a written proposal that outlines the type of community service that the pupil would like to perform and the goals that the pupil hopes to achieve as a result of community service. The pupil's written proposal shall be reviewed by a faculty advisor, a guidance counselor or any other school employee who is designated as the community service program coordinator for that school. The pupil may alter the written proposal at any time before performing community service.

(f) Procedures for a faculty advisor, a guidance counselor or any other school employee who is designated as the community service program coordinator to evaluate and certify the completion of community service performed by pupils.

32. To facilitate the transfer of military personnel and their dependents to and from the public schools of this state, pursue, in cooperation with the Arizona board of regents, reciprocity agreements with other states concerning the transfer credits for military personnel and their dependents. A reciprocity agreement entered into pursuant to this paragraph shall:

(a) Address procedures for each of the following:

(i) The transfer of student records.

(ii) Awarding credit for completed coursework.

(iii) Permitting a student to satisfy the graduation requirements prescribed in section 15-701.01 through the successful performance on comparable exit-level assessment instruments administered in another state.

(b) Include appropriate criteria developed by the state board of education and the Arizona board of regents.

33. Adopt guidelines that school district governing boards shall use in identifying pupils who are eligible for gifted programs and in providing gifted education programs and services. The state board of education shall adopt any other guidelines and rules that it deems necessary in order to carry out the purposes of chapter 7, article 4.1 of this title.

34. For each of the alternative textbook formats of human-voiced audio, large-print and braille, designate alternative media producers to adapt existing standard print textbooks or to provide specialized textbooks, or both, for pupils with disabilities in this state. Each alternative media producer shall be capable of producing alternative textbooks in all relevant subjects in at least one of the alternative textbook formats. The board shall post the designated list of alternative media producers on its website.

35. Adopt a list of approved professional development training providers for use by school districts as provided in section 15-107, subsection J. The professional development training providers shall meet
the training curriculum requirements determined by the state board of education in at least the areas of school finance, governance, employment, staffing, inventory and human resources, internal controls and procurement.

36. Adopt rules to prohibit a person who violates the notification requirements prescribed in section 15-183, subsection C, paragraph 8 or section 15-550, subsection D from certification pursuant to this title until the person is no longer charged or is acquitted of any offenses listed in section 41-1758.03, subsection B. The state board shall also adopt rules to prohibit a person who violates the notification requirements, certification surrender requirements or fingerprint clearance card surrender requirements prescribed in section 15-183, subsection C, paragraph 9 or section 15-550, subsection E from certification pursuant to this title for at least ten years after the date of the violation.

37. Adopt rules for the alternative certification of teachers of nontraditional foreign languages that allow for the passing of a nationally accredited test to substitute for the education coursework required for certification.

38. Adopt rules to define competency-based educational pathways for college and career readiness that may be used by schools. The rules shall include the following components:
   (a) The establishment of learning outcomes that will be expected for students in a particular subject, BEGINNING WITH MATH.
   (b) A process and criteria by which assessments may be identified or established to determine whether students have reached the desired competencies in a particular subject.
   (c) (b) ON OR BEFORE DECEMBER 31, 2022, a mechanism to allow pupils in grades seven through twelve who have demonstrated competency in a subject to immediately obtain credit for the mastery of that subject. The rules shall include a list of applicable subjects, including the level of competency required for each subject.

39. In consultation with the department of health services, the department of education, medical professionals, school health professionals, school administrators and an organization that represents school nurses in this state, adopt rules that prescribe the following for school districts and charter schools:
   (a) Annual training in the administration of auto-injectable epinephrine for designated medical and nonmedical school personnel. The annual training prescribed in this subdivision is optional during any fiscal year in which a school does not stock epinephrine auto-injectors at the school during that fiscal year.
   (b) Annual training for all school site personnel on the recognition of anaphylactic shock symptoms and the procedures to follow when anaphylactic shock occurs, following the national guidelines of the American academy of pediatrics. The annual training prescribed in this subdivision is optional during any fiscal year in which a school does not stock epinephrine auto-injectors at the school during that fiscal year.
   (c) Procedures for the administration of epinephrine auto-injectors in emergency situations.
(d) Procedures for annually requesting a standing order for epinephrine auto-injectors pursuant to section 15-157 from the chief medical officer of the department of health services, the chief medical officer of a county health department, a doctor of medicine licensed pursuant to title 32, chapter 13, A DOCTOR OF NATUROPATHIC MEDICINE LICENSED PURSUANT TO TITLE 32, CHAPTER 14 or a doctor of osteopathic medicine licensed pursuant to Title 32, chapter 17.

(e) Procedures for reporting the use of epinephrine auto-injectors to the department of health services.

40. In consultation with the department of education, medical professionals, school health professionals, school administrators and an organization that represents school nurses in this state, adopt rules that prescribe the following for school districts and charter schools that elect to administer inhalers:

(a) Annual training in the recognition of respiratory distress symptoms and the procedures to follow when respiratory distress occurs, in accordance with good clinical practice, and the administration of inhalers, as directed on the prescription protocol, by designated medical and nonmedical school personnel.

(b) Requirements for school districts and charter schools that elect to administer inhalers to designate at least two employees at each school to be trained in the recognition of respiratory distress symptoms and the procedures to follow when respiratory distress occurs, in accordance with good clinical practice, and at least two employees at each school to be trained in the administration of inhalers, as directed on the prescription protocol.

(c) Procedures for the administration of inhalers in emergency situations, as directed on the prescription protocol.

(d) Procedures for annually requesting a standing order for inhalers and spacers or holding chambers pursuant to section 15-158 from the chief medical officer of a county health department, a physician licensed pursuant to title 32, chapter 13[1, 14] or 17 or a nurse practitioner licensed pursuant to title 32, chapter 15.

(e) Procedures for notifying a parent once an inhaler has been administered.

41. Adopt rules for certification that allow substitute teachers who can demonstrate primary teaching responsibility in a classroom as defined by the state board of education to use the time spent in that classroom toward the required capstone experience for standard teaching certification.

42. For the purposes of Sandra Day O'Connor civics celebration day instruction under section 15-710.01, develop a list of recommended resources relating to civics education that align with the academic standards prescribed by the state board of education in social studies pursuant to sections 15-701 and 15-701.01. The state board shall establish a process that allows public schools to recommend resources for addition to the list.
43. DIRECT AND OVERSEE THE WORK OF ALL INVESTIGATORS RELATED TO
INVESTIGATING CERTIFICATED PERSONS, PERSONS SEEKING CERTIFICATION AND
NONCERTIFICATED PERSONS FOR IMMORAL OR UNPROFESSIONAL CONDUCT UNDER THIS
TITLE AND RULES ADOPTED PURSUANT TO THIS TITLE. THE INVESTIGATORS SHALL BE
HOUSED WITHIN AND ARE EMPLOYEES OF THE STATE BOARD OF EDUCATION.

44. ESTABLISH BEST PRACTICES FOR SOCIAL MEDIA AND CELLULAR TELEPHONE
USE BETWEEN STUDENTS AND SCHOOL PERSONNEL, INCLUDING TEACHERS, COACHES AND
COUNSELORS, AND ENCOURAGE SCHOOL DISTRICT GOVERNING BOARDS AND CHARTER
SCHOOL GOVERNING BODIES TO ADOPT POLICIES THAT IMPLEMENT THESE BEST
PRACTICES. THE STATE BOARD OF EDUCATION SHALL MAKE THESE BEST PRACTICES
AVAILABLE TO BOTH PUBLIC AND PRIVATE SCHOOLS.

B. The state board of education may:
1. Contract.
2. Sue and be sued.
3. Distribute and score the tests prescribed in chapter 7, article 3 of
   this title.
4. Provide for an advisory committee OR HEARING OFFICERS to conduct
   hearings and screenings to determine whether grounds exist to impose
   disciplinary action against a certificated person, whether grounds exist to
   reinstate a revoked or surrendered certificate, and whether grounds exist
   to approve or deny an initial application for certification or a request
   for renewal of a certificate AND WHETHER GROUNDS EXIT TO IMPOSE OR LIFT
   DISCIPLINARY ACTION AGAINST A NONCERTIFICATED PERSON. The board may
   delegate its responsibility to conduct hearings and screenings to its
   advisory committee OR HEARING OFFICERS. Hearings shall be conducted
   pursuant to title 41, chapter 6, article 6.
5. Proceed with the disposal of any complaint requesting disciplinary
   action or with any disciplinary action against a NONCERTIFICATED PERSON
   AFTER THE BOARD HAS IMPOSED DISCIPLINARY ACTION PURSUANT TO SECTION 15-505
   OR AGAINST a person holding a certificate as prescribed in subsection A,
   paragraph 14 of this section after the suspension or expiration of the
   certificate or surrender of the certificate by the holder.
6. Assess costs and reasonable attorney fees against a person who
   files a frivolous complaint or who files a complaint in bad faith. Costs
   assessed pursuant to this paragraph shall not exceed the expenses incurred
   by the department STATE BOARD of education in the investigation of the
   complaint.
7. ISSUE SUBPOENAS TO COMPEL THE ATTENDANCE AND TESTIMONY OF
   WITNESSES AND PRODUCTION OF DOCUMENTS OR ANY PHYSICAL EVIDENCE IN CONNECTION
   WITH AN INVESTIGATION OR HEARING OF AN ALLEGATION THAT A CERTIFICATED PERSON,
   A PERSON SEEKING CERTIFICATION OR A NONCERTIFICATED PERSON HAS ENGAGED IN
   IMMORAL OR UNPROFESSIONAL CONDUCT. IF A SUBPOENA ISSUED BY THE BOARD IS
   DISOBEYED, THE BOARD MAY PETITION THE SUPERIOR COURT TO ENFORCE THE
   SUBPOENA. ANY FAILURE TO OBEY AN ORDER OF THE COURT PURSUANT TO THIS
   PARAGRAPH MAY BE PUNISHED BY THE COURT AS CONTEMPT.
C. FOR THE PURPOSES OF THIS SECTION, "NONCERTIFICATED PERSON" HAS
   THE SAME MEANING PRESCRIBED IN SECTION 15-505.
EXPLANATION OF BLEND
SECTION 15-211

Laws 2021, Chapters 285 and 434

Laws 2021, Ch. 285, section 4 Effective September 29, 2021
(Retroactive to July 1, 2021)

Laws 2021, Ch. 434, section 1 Effective September 29, 2021
(Retroactive to July 1, 2021)

Explanation

Since these two enactments are compatible, the Laws 2021, Ch. 285 and Ch. 434 text changes to section 15-211 are blended in the form shown on the following pages.
15-211. K-3 reading program; dyslexia specialist; dyslexia training; receipt and use of monies; additional funding; annual report

A. The department of education shall administer a K-3 reading program to improve the reading proficiency of pupils in kindergarten programs and grades one, two and three in the public schools of this state.

B. The department of education shall designate a dyslexia specialist for the department to provide school districts and charter schools with support and resources that are necessary to assist students with dyslexia.

C. On or before July 1, 2022, each school district and charter school shall ensure that at least one kindergarten through third grade teacher in each school has received training related to dyslexia that complies with the requirements prescribed in section 15-219.

D. Each school district and charter school shall submit to the department of education a plan for improving the reading proficiency of the school district's or the charter school's pupils in kindergarten programs and grades one, two and three. The plan shall include baseline data on the reading proficiency of the school district's or the charter school's pupils in kindergarten programs and grades one, two and three and a budget for spending monies from both the K-3 support level weight and the K-3 reading support level weight established in section 15-943. Each school district and charter school shall annually submit to the department of education on or before October 1 an updated K-3 reading program plan that includes data on program expenditures and results, except that a school district or charter school that is assigned a letter grade of A or B pursuant to section 15-241 shall submit this plan only in odd-numbered years.

E. School districts and charter schools shall use monies generated by the K-3 reading support level weight established in section 15-943 only on instructional purposes based on the plan submitted pursuant to subsection D of this section intended to improve reading proficiency for pupils in kindergarten programs and grades one, two and three with particular emphasis on pupils in kindergarten programs and grades one and two.

F. Each school district and charter school that is assigned a letter grade of C, D or F pursuant to section 15-241 or that has more than ten percent of its pupils in grade three who do not demonstrate sufficient reading skills as established by the state board of education according to the reading portion of the statewide assessment shall receive monies generated by the K-3 reading support level weight established in section 15-943 only after the K-3 reading program plan of the school district or charter school has been submitted, reviewed and recommended for approval by the department of education and approved by the state board. The state board must give approval to a school district or charter school before any portion of the monies generated by the K-3 reading support level weight may be distributed to the school district or charter school pursuant to this subsection.
G. Pupils in a charter school that is in its first year of operation and that is sponsored by the state board of education, the state board for charter schools, a university under the jurisdiction of the Arizona board of regents, a community college district or a group of community college districts are eligible for the K-3 reading support level weight.

H. The department of education shall solicit gifts, grants and donations from any lawful public or private source in order to provide additional funding for the K-3 reading program.

I. The state board of education may establish rules and policies for the K-3 reading program, including:

1. The proper use of monies in accordance with subsection E of this section.

2. The distribution of monies by the department of education in accordance with subsection D of this section.

3. The compliance of reading proficiency plans submitted pursuant to subsection D of this section with section 15-704.

J. Pursuant to subsection I of this section, the department of education shall develop program implementation guidance for school districts and charter schools to assist schools in administering an effective K-3 evidence-based reading program plan. This guidance shall include identifying and recommending appropriate program expenditures, providing technical oversight and assistance for annually updating reading program plans, selecting and adopting evidence-based reading curricula and providing and promoting teacher professional development that is based on evidence-based reading research. The department shall prioritize supports and interventions, including enrollment in reading trainings and professional development, for school districts and charter schools that have the highest percentage of pupils who do not demonstrate sufficient reading skills as established by the state board of education. The department shall deposit any monies received for offering reading trainings or professional development, including coaching, in the department of education professional development revolving fund established by section 15-237.01.

K. On or before December 15, the department of education shall submit an annual report on the K-3 reading program to the governor, the president of the senate and the speaker of the house of representatives and shall provide a copy of this annual report to the secretary of state, the state board of education and the chairpersons of the education committees of the senate and the house of representatives. The report shall contain all of the following:

1. Information on the improvement of K-3 reading in this state, including achievement data statewide and achievement data at the school district and charter school level. The information pursuant to this paragraph shall include data and information on continued proficiency on the statewide assessment in subsequent grades.

2. A description of the activities of the department to support school districts and charter schools in improving K-3 reading.

3. Specific findings on methods by which the department may continue to improve support and assistance for school districts and charter schools in the administration of K-3 reading program plans.
4. Information and data on K-3 reading program plans throughout this state and the expenditure of K-3 reading monies by school districts and charter schools.

5. Data reported pursuant to section 15-701, subsection A, paragraph 2, subdivision (d).

l. The program established by this section ends on July 1, 2022 pursuant to section 41-3102.
EXPLANATION OF BLEND
SECTION 15-213.01

Laws 2021, Chapters 39 and 404

Laws 2021, Ch. 39, section 3  Effective September 29, 2021
Laws 2021, Ch. 404, section 6  Effective September 29, 2021

Explanation

Since these two enactments are compatible, the Laws 2021, Ch. 39 and Ch. 404 text changes to section 15-213.01 are blended in the form shown on the following pages.
15-213.01. Procurement practices: guaranteed energy cost savings contracts: definitions

A. Notwithstanding section 15-213, subsection A, a school district may contract for the procurement of a guaranteed energy cost savings contract with a qualified provider through a competitive sealed proposal process as provided by the procurement practices adopted by the state board of education.

B. A school district may enter into a guaranteed energy cost savings contract with a qualified provider if it determines that the energy savings project pays for itself within the expected life, according to the manufacturer's equipment standards, of the energy cost savings measures implemented, the term of the financial agreement or twenty-five years, whichever is shortest, if the recommendations in the proposal are followed. The school district shall retain the cost savings achieved by a guaranteed energy cost savings contract, and these cost savings may be used to pay for the contract and project implementation.

C. The school district shall use objective criteria in selecting the qualified provider, including the cost of the contract, the energy cost savings, the net projected energy savings, the quality of the technical approach, the quality of the project management plan, the financial solvency of the qualified provider and the experience of the qualified provider with projects of similar size and scope. The school district shall set forth each criterion with its respective numerical weighting in the request for proposal.

D. In selecting a contractor to perform any construction work related to performing the guaranteed energy cost savings contract, the qualified provider may develop and use a prequalification process for contractors. These prequalifications may require the contractor to demonstrate that the contractor is adequately bonded to perform the work and that the contractor has not failed to perform on a prior job.

E. A study shall be performed by the selected qualified provider in order to establish the exact scope of the guaranteed energy cost savings contract, the fixed cost savings guarantee amount and the methodology for determining actual savings. This report shall be reviewed and approved by the school district before the actual installation of any equipment. The qualified provider shall transmit a copy of the approved study to the ___DIVISION OF school facilities board WITHIN THE DEPARTMENT OF ADMINISTRATION ___and the governor's office ___of energy policy ___DEPARTMENT OF ADMINISTRATION.

F. The guaranteed energy cost savings contract shall require that, in determining whether the projected energy savings calculations have been met, the energy savings shall be computed by comparing the energy baseline before installation or implementation of the energy cost savings measures with the energy consumed after installation or implementation of the energy cost savings measures. The qualified provider and the school district may agree to make modifications to the energy baseline only for any of the following:
2. Changes in the number of days in the utility billing cycle.
3. Changes in the square footage of the facility.
4. Changes in the operational schedule of the facility.
5. Changes in facility temperature.
6. Significant changes in the weather.
7. Significant changes in the amount of equipment or lighting used in the facility.
8. Significant changes in the nature or intensity of energy use, such as the change of classroom space to laboratory space.

G. The information to develop the energy baseline shall be derived from historical energy costs or actual energy measurements or shall be calculated from energy measurements at the facility where energy cost savings measures are to be installed or implemented. The baseline shall be established before the installation or implementation of energy cost savings measures.

H. At the qualified provider's expense, the proposal shall include an independent third-party validation of cost savings calculations associated with each proposed energy cost savings measure by a licensed, registered professional engineer, with credentials from the national association of energy engineers, who has demonstrated experience in energy analysis. The school district must approve the selection of the credentialed engineer.

I. A school district, or two or more school districts, may enter into a financing agreement with a qualified provider or the financial institution, trustee or paying agent for the purchase and installation or implementation of energy cost savings measures. The guaranteed energy cost savings contract may provide for payments over a period of not more than the expected life, according to the manufacturer's equipment standards, of the energy cost savings measures implemented, the term of the financial agreement or twenty-five years, whichever is shortest. The contract shall provide that all payments, except obligations on termination of the contract before its expiration, shall be made pursuant to the terms of the financing agreement. If a school district purchases the energy cost savings measure, the qualified provider shall guarantee that the energy cost savings meet or exceed the school district's total cost of the energy savings project purchase.

J. The guaranteed energy cost savings contract shall include a written guarantee of the qualified provider that the energy savings will meet or exceed the costs of the energy cost savings measures over the expected life, according to the manufacturer's equipment standards, of the energy cost savings measures implemented, the term of the financial agreement or twenty-five years, whichever is shortest. The qualified provider shall:

1. For the term of the guaranteed energy cost savings contract, prepare a measurement and verification report on an annual basis in addition to an annual reconciliation of savings.
2. Reimburse the school district for any shortfall of guaranteed energy cost savings on an annual basis.
3. Use the international performance and measurement and verification protocol standards or the federal energy management program standards to validate the savings guarantee.
K. The school district may obtain any required financing as part of the original competitive sealed proposal process from the qualified provider or a third-party financing institution.

L. A qualified provider that is awarded the contract shall give a sufficient bond to the school district for its faithful performance of the equipment installment.

M. The qualified provider is required to make public the information in the subcontractor's bids only if the qualified provider is awarded the guaranteed energy cost savings contract by the school district.

N. For all projects carried out under this section, the district shall report THE FOLLOWING INFORMATION to the governor's office of energy policy DEPARTMENT OF ADMINISTRATION:
   1. The name of the project.
   2. The name of the qualified provider.
   3. The total cost of the project.
   4. The expected energy cost savings and relevant escalators.
   5. The agreed-on baseline in the measurement and verification agreement in both kilowatt hours and dollars.

O. This section does not apply to the construction of new buildings.

P. A school district may use a simplified energy performance contract for projects that are less than five hundred thousand dollars ($500,000). Simplified energy performance contracts are not required to include an energy savings guarantee and shall comply with all requirements in this section except for the requirements that are specifically related to the energy savings guarantee and the measurement and verification of the guaranteed savings.

Q. A SCHOOL DISTRICT MAY ELECT TO USE A SHORTER CAPITAL COST REPAYMENT SCHEDULE THAN REQUIRED PURSUANT TO THIS SECTION.

R. For the purposes of this section:
   1. "Construction" means the process of building, altering, repairing, improving or demolishing any school district structure or building, or other public improvements of any kind to any school district real property. Construction does not include the routine operation, routine repair or routine maintenance of existing structures, buildings or real property.

   2. "Energy baseline" means a calculation of the amount of energy used in an existing facility before the installation or implementation of the energy cost savings measures.

   3. "ENERGY COST SAVINGS" MEANS ONE OR BOTH OF THE FOLLOWING:
      (a) AN ESTIMATED REDUCTION IN NET FUEL COSTS, ENERGY COSTS, WATER COSTS, STORMWATER FEES OR OTHER UTILITY COSTS, OR RELATED NET OPERATING COSTS, INCLUDING COSTS FOR ANTICIPATED EQUIPMENT REPLACEMENT AND REPAIR, FROM OR AS COMPARED TO AN ESTABLISHED BASELINE OF THOSE COSTS.
      (b) AN ESTIMATED REVENUE INCREASE ASSOCIATED WITH ADDITIONAL FACILITY USE OR THE USE OF IMPROVED METERS OR OTHER MEASURING DEVICES DUE TO IMPROVEMENTS INCLUDED IN THE GUARANTEED ENERGY COST SAVINGS CONTRACT.

   4. "Energy cost savings measure" means a training program or facility alteration designed to reduce energy consumption and may include one or more of the following, and any related meters or other measuring devices:
      (a) Insulating the building structure or systems in the building.
(b) Storm windows or doors, caulking or weather stripping, multiglazed windows or door systems, additional glazing, reductions in glass area, or other window and door system modifications that reduce energy consumption.
(c) Automated or computerized energy control systems.
(d) Heating, ventilating or air conditioning system modifications or replacements, including geothermal.
(e) Replacing or modifying lighting fixtures to increase the energy efficiency of the lighting system without increasing the overall illumination of a facility unless an increase in illumination is necessary to conform to the applicable state or local building code for the lighting system after the proposed modifications are made.
(f) Indoor air quality improvements to increase air quality that conform to the applicable state or local building code requirements.
(g) Energy recovery systems.
(h) Installing a new or retrofitting an existing day lighting system.
(i) Procurement of low-cost utility supplies of all types, including electricity, natural gas, propane and water.
(j) Devices that reduce water consumption and water costs or that reduce sewer charges.
(k) Rainwater harvesting systems.
(l) Combined heat and power systems.
(m) Renewable and alternative energy projects and renewable energy power service agreements.
(n) Self-generation systems.
(o) Any additional building systems and infrastructure that produce energy, or that provide utility cost savings not specifically mentioned in this paragraph, if the improvements meet the life-cycle cost requirement and enhance building system performance or occupant comfort and safety, excluding those systems that fall under section 15-213.02.
(p) Geothermal.

4. 5. "Guaranteed energy cost savings contract" means a contract for implementing one or more energy cost savings measures.
5. 6. "Life-cycle cost" means the sum of present values of investment costs, capital costs, installation costs, energy costs, operating costs, maintenance costs and disposal costs and utility rebates over the life of the project, product or measure as provided by federal life-cycle cost rules, regulations and criteria contained in the United States department of energy federal energy management program "guidance on life-cycle cost analysis" required by executive order 13423, January 2007.
6. 7. "Qualified provider" means a person or a business that is experienced in designing, implementing or installing energy cost savings measures, that has a record of established projects or measures of similar size and scope, that has demonstrated technical, operational, financial and managerial capabilities to design and operate energy cost savings measures and projects and that has the financial ability to satisfy guarantees for energy cost savings.
EXPLANATION OF BLEND
SECTION 15-258

Laws 2021, Chapters 147 and 285

Laws 2021, Ch. 147, section 1  Effective September 29, 2021
  (Retroactive to July 1, 2020)

Laws 2021, Ch. 285, section 8  Effective September 29, 2021
  (Retroactive to July 1, 2021)

Explanation

Since these two enactments are compatible, the Laws 2021, Ch. 147 and Ch. 285 text changes to section 15-258 are blended in the form shown on the following page.
15-258. **State seal of biliteracy program: requirements: diploma**

A. The superintendent of public instruction shall establish a state seal of biliteracy program to recognize students who graduate from a school operated by a school district or a charter school located in this state and who have attained a high level of proficiency in one or more languages in addition to English.

B. The superintendent of public instruction shall:

1. Create a state seal of biliteracy, that WHICH shall be affixed to the diploma and noted on the transcript of a student to recognize that the student has met the requirements prescribed in this section.
2. Deliver the state seal of biliteracy to each public school district or charter school that participates in the program.
3. Any school district or charter school may voluntarily participate in the state seal of biliteracy program by notifying the superintendent of public instruction of the school district's or charter school's intent to participate in the program.
4. Each school district governing board or charter school governing body that participates in the state seal of biliteracy program shall:
   1. Identify the students who have met the requirements to be awarded the state seal of biliteracy.
   2. Affix the state seal of biliteracy to the diploma and note the receipt of the state seal of biliteracy on the transcript of each student who meets those requirements.
5. The state board of education, in collaboration with the department of education, shall adopt a list of assessments using researched-based RESEARCH-BASED methodology to determine a student's proficiency in a language other than English and may adopt rules as necessary to carry out the purposes of this section.
6. A school district or charter school that participates in the state seal of biliteracy program established pursuant to this section shall award a student, on graduation from high school, a high school diploma with a state seal of biliteracy if the student meets all of the following requirements:
   1. Successfully completes all English language arts requirements for graduation with an overall grade point average in those classes of 2.0 or higher on a 4.0 scale, or the equivalent.
   2. Passes the end-of-course examinations AN EXAMINATION in English language arts required pursuant to section 15-755.
   3. Demonstrates proficiency in one or more languages other than English by meeting the requirements adopted pursuant to subsection E of this section.
   4. If the student has a primary language other than English, obtains a score of proficient or higher based on the English language proficiency standards, pursuant to section 15-756.
6. The program established pursuant to this section ends on July 1, 2026 pursuant to section 41-3102.
EXPLANATION OF BLEND
SECTION 15-341

Laws 2021, Chapters 260 and 404

Laws 2021, Ch. 260, section 2  Effective September 29, 2021
Laws 2021, Ch. 404, section 10  Effective September 29, 2021

Explanation

Since these two enactments are compatible, the Laws 2021, Ch. 260 and Ch. 404 text changes to section 15-341 are blended in the form shown on the following pages.
BLENDF OF SECTION 15-341
Laws 2021, Chapters 260 and 404

15-341. General powers and duties; immunity; delegation
A. The governing board shall:
1. Prescribe and enforce policies and procedures for the governance of govern the schools that are not inconsistent with law or rules prescribed by the state board of education.
2. Exclude from schools all books, publications, papers or audiovisual materials of a sectarian, partisan or denominational character. This paragraph does not prohibit the elective course permitted by section 15-717.01.
3. Manage and control the school property within its district, except that a district may enter into a partnership with an entity, including a charter school, another school district or a military base, to operate a school or offer educational services in a district building, including at a vacant or partially used building, or in any building on the entity's property pursuant to a written agreement between the parties.
4. Acquire school furniture, apparatus, equipment, library books and supplies for the use of the schools TO USE.
5. Prescribe the curricula and criteria for the promotion and graduation of pupils as provided in sections 15-701 and 15-701.01.
6. Furnish, repair and insure, at full insurable value, the school property of the district.
7. Construct school buildings on approval by a vote of the district electors.
8. Make In the name of the district, conveyances of CONVEY property belonging to the district and sold by the board.
9. Purchase school sites when authorized by a vote of the district at an election conducted as nearly as practicable in the same manner as the election provided in section 15-481 and held on a date prescribed in section 15-491, subsection E, but such authorization shall not necessarily specify the site to be purchased and such authorization shall not be necessary to exchange unimproved property as provided in section 15-342, paragraph 23.
10. Construct, improve and furnish buildings used for school purposes when such buildings or premises are leased from the national park service.
11. Purchase school sites or construct, improve and furnish school buildings from the proceeds of the sale of school property only on approval by a vote of the district electors.
12. Hold pupils to strict account for disorderly conduct on school property.
13. Discipline students for disorderly conduct on the way to and from school.
14. Except as provided in section 15-1224, deposit all monies received by the district as gifts, grants and devises with the county treasurer who shall credit the deposits as designated in the uniform system of financial records. If not inconsistent with the terms of the gifts, grants and devises given, any balance remaining after expenditures for the
intended purpose of the monies have been made shall be used for reduction of school district taxes for the budget year, except that in the case of accommodation schools the county treasurer shall carry the balance forward for use by the county school superintendent for accommodation schools for the budget year.

15. Provide that, if a parent or legal guardian chooses not to accept a decision of the teacher as provided in paragraph 42 of this subsection, the parent or legal guardian may request in writing that the governing board review the teacher's decision. This paragraph does not release school districts from any liability relating to a child's promotion or retention.

16. Provide for adequate supervision over pupils in instructional and noninstructional activities by certificated or noncertificated personnel.

17. Use school monies received from the state and county school apportionment exclusively for payment of TO PAY salaries of teachers and other employees and contingent expenses of the district.

18. Make an annual report to the county school superintendent on or before October 1 in the manner and form and on the blanks prescribed by the superintendent of public instruction or county school superintendent. The board shall also make reports directly to the county school superintendent or the superintendent of public instruction whenever required.

19. Deposit all monies received by school districts other than student activities monies or monies from auxiliary operations as provided in sections 15-1125 and 15-1126 with the county treasurer to the credit of the school district except as provided in paragraph 20 of this subsection and sections 15-1223 and 15-1224, and the board shall expend the monies as provided by law for other school funds.

20. Establish bank accounts in which the board during a month may deposit miscellaneous monies received directly by the district. The board shall remit monies deposited in the bank accounts at least monthly to the county treasurer for deposit as provided in paragraph 19 of this subsection and in accordance with the uniform system of financial records.

21. Prescribe and enforce policies and procedures for disciplinary action against a teacher who engages in conduct that is a violation of the policies of the governing board but that is not cause for dismissal of the teacher or for revocation of the certificate of the teacher. Disciplinary action may include suspension without pay for a period of time not to exceed ten school days. Disciplinary action shall not include suspension with pay or suspension without pay for a period of time longer than ten school days. The procedures shall include notice, hearing and appeal provisions for violations that are cause for disciplinary action. The governing board may designate a person or persons to act on behalf of the board on these matters.

22. Prescribe and enforce policies and procedures for disciplinary action against an administrator who engages in conduct that is a violation of the policies of the governing board regarding duties of administrators but that is not cause for dismissal of the administrator or for revocation of the certificate of the administrator. Disciplinary action may include
suspension without pay for a period of time not to exceed ten school days. Disciplinary action shall not include suspension with pay or suspension without pay for a period of time longer than ten school days. The procedures shall include notice, hearing and appeal provisions for violations that are cause for disciplinary action. The governing board may designate a person or persons to act on behalf of the board on these matters. For violations that are cause for dismissal, the provisions of notice, hearing and appeal in chapter 5, article 3 of this title shall apply. The filing of a timely request for a hearing suspends the imposition of a suspension without pay or a dismissal pending completion of the hearing.

23. Notwithstanding sections 13-3108 and 13-3120, prescribe and enforce policies and procedures that prohibit a person from carrying or possessing a weapon on school grounds unless the person is a peace officer or has obtained specific authorization from the school administrator.

24. Prescribe and enforce policies and procedures relating to the health and safety of all pupils participating in district-sponsored practice sessions or games or other interscholastic athletic activities, including:

(a) The provision of water.

(b) Guidelines, information and forms, developed in consultation with a statewide private entity that supervises interscholastic activities, to inform and educate coaches, pupils and parents of the dangers of concussions and head injuries and the risks of continued participation in athletic activity after a concussion. The policies and procedures shall require that, before a pupil participates in an athletic activity, the pupil and the pupil's parent must sign an information form at least once each school year that states that the parent is aware of the nature and risk of concussion. The policies and procedures shall require that a pupil who is suspected of sustaining a concussion in a practice session, game or other interscholastic athletic activity be immediately removed from the athletic activity and that the pupil's parent or guardian be notified. A coach from the pupil's team or an official or a licensed health care provider may remove a pupil from play. A team parent may also remove the parent's own child from play. A pupil may return to play on the same day if a health care provider rules out a suspected concussion at the time the pupil is removed from play. On a subsequent day, the pupil may return to play if the pupil has been evaluated by and received written clearance to resume participation in athletic activity from a health care provider who has been trained in the evaluation and management of concussions and head injuries. A health care provider who is a volunteer and who provides clearance to participate in athletic activity on the day of the suspected injury or on a subsequent day is immune from civil liability with respect to all decisions made and actions taken that are based on good faith implementation of the requirements of this subdivision, except in cases of gross negligence or wanton or wilful neglect. A school district, school district employee, team coach, official or team volunteer or a parent or guardian of a team member is not subject to civil liability for any act, omission or policy undertaken in good faith to comply with the requirements of this subdivision or for a decision made or an action taken by a health care provider. A group or organization that uses property or facilities owned or operated by a school
district for athletic activities shall comply with the requirements of this subdivision. A school district and its employees and volunteers are not subject to civil liability for any other person or organization's failure or alleged failure to comply with the requirements of this subdivision. This subdivision does not apply to teams that are based in another state and that participate in an athletic activity in this state. For the purposes of this subdivision, athletic activity does not include dance, rhythmic gymnastics, competitions or exhibitions of academic skills or knowledge or other similar forms of physical noncontact activities, civic activities or academic activities, whether engaged in for the purposes of competition or recreation. For the purposes of this subdivision, "health care provider" means a physician who is licensed pursuant to title 32, chapter 13 or 17, an athletic trainer who is licensed pursuant to title 32, chapter 41, a nurse practitioner who is licensed pursuant to title 32, chapter 15, and a physician assistant who is licensed pursuant to title 32, chapter 25.

(c) Guidelines, information and forms that are developed in consultation with a statewide private entity that supervises interscholastic activities to inform and educate coaches, pupils and parents of the dangers of heat-related illnesses, sudden cardiac death and prescription opioid use. Before a pupil participates in any district-sponsored practice session or game or other interscholastic athletic activity, the pupil and the pupil's parent must be provided with information at least once each school year on the risks of heat-related illnesses, sudden cardiac death and prescription opioid addiction.

25. Establish an assessment, data gathering and reporting system as prescribed in chapter 7, article 3 of this title.

26. Provide special education programs and related services pursuant to section 15-764, subsection A to all children with disabilities as defined in section 15-761.

27. Administer competency tests prescribed by the state board of education for the graduation of pupils from high school.

28. Ensure that insurance coverage is secured for all construction projects for purposes of general liability, property damage and workers' compensation and secure performance and payment bonds for all construction projects.

29. Keep in the personnel file of all current and former employees who provide instruction to pupils at a school information about the employee's educational and teaching background and experience in a particular academic content subject area. A school district shall inform parents and guardians of the availability of the information and shall make the information available for inspection on request of parents and guardians of pupils enrolled at a school. This paragraph does not require any school to release personally identifiable information in relation to any teacher or employee, including the teacher's or employee's address, salary, social security number or telephone number.

30. Report to local law enforcement agencies any suspected crime against a person or property that is a serious offense as defined in section 13-706 or that involves a deadly weapon or dangerous instrument or serious physical injury and any conduct that poses a threat of death or serious
physical injury to employees, students or anyone on the property of the school. This paragraph does not limit or preclude the reporting by a school district or an employee of a school district of suspected crimes other than those required to be reported by this paragraph. For the purposes of this paragraph, "dangerous instrument", "deadly weapon" and "serious physical injury" have the same meanings prescribed in section 13-105.

31. In conjunction with local law enforcement agencies and emergency response agencies, develop an emergency response plan for each school in the school district in accordance with minimum standards developed jointly by the department of education and the division of emergency management within the department of emergency and military affairs.

32. Provide written notice to the parents or guardians of all students enrolled in the school district at least ten days before a public meeting to discuss closing a school within the school district. The notice shall include the reasons for the proposed closure and the time and place of the meeting. The governing board shall fix a time for a public meeting on the proposed closure not less than ten days before voting in a public meeting to close the school. The school district governing board shall give notice of the time and place of the meeting. At the time and place designated in the notice, the school district governing board shall hear reasons for or against closing the school. The school district governing board is exempt from this paragraph if the governing board determines that the school shall be closed because it poses a danger to the health or safety of the pupils or employees of the school. A governing board may consult with the DIVISION OF school facilities board WITHIN THE DEPARTMENT OF ADMINISTRATION for technical assistance and for information on the impact of closing a school. The information provided from the DIVISION OF school facilities board WITHIN THE DEPARTMENT OF ADMINISTRATION shall not require the governing board to take or not take any action.

33. Incorporate instruction on Native American history into appropriate existing curricula.

34. Prescribe and enforce policies and procedures:
   (a) Allowing pupils who have been diagnosed with anaphylaxis by a health care provider licensed pursuant to title 32, chapter 13, 14, 17 or 25 or by a registered nurse practitioner licensed and certified pursuant to title 32, chapter 15 to carry and self-administer emergency medications, including epinephrine auto-injectors, while at school and at school-sponsored activities. The pupil's name on the prescription label on the medication container or on the medication device and annual written documentation from the pupil's parent or guardian to the school that authorizes possession and self-administration is sufficient proof that the pupil is entitled to the possession and self-administration of the medication. The policies shall require a pupil who uses an epinephrine auto-injector while at school and at school-sponsored activities to notify the nurse or the designated school staff person of the use of the medication as soon as practicable. A school district and its employees are immune from civil liability with respect to all decisions made and actions taken that are based on good faith implementation of the requirements of this subdivision, except in cases of wanton or wilful neglect.
(b) For the emergency administration of epinephrine auto-injectors by a trained employee of a school district pursuant to section 15-157.

35. Allow the possession and self-administration of prescription medication for breathing disorders in handheld inhaler devices by pupils who have been prescribed that medication by a health care professional licensed pursuant to title 32. The pupil's name on the prescription label on the medication container or on the handheld inhaler device and annual written documentation from the pupil's parent or guardian to the school that authorizes possession and self-administration shall be sufficient proof that the pupil is entitled to the possession and self-administration of the medication. A school district and its employees are immune from civil liability with respect to all decisions made and actions taken that are based on a good faith implementation of the requirements of this paragraph.

36. Prescribe and enforce policies and procedures to prohibit pupils from harassing, intimidating and bullying other pupils on school grounds, on school property, on school buses, at school bus stops, at school-sponsored events and activities and through the use of electronic technology or electronic communication on school computers, networks, forums and mailing lists that include the following components:

(a) A procedure for pupils, parents and school district employees to confidentially report to school officials incidents of harassment, intimidation or bullying. The school shall make available written forms designed to provide a full and detailed description of the incident and any other relevant information about the incident.

(b) A requirement that school district employees report in writing suspected incidents of harassment, intimidation or bullying to the appropriate school official and a description of appropriate disciplinary procedures for employees who fail to report suspected incidents that are known to the employee.

(c) A requirement that, at the beginning of each school year, school officials provide all pupils with a written copy of the rights, protections and support services available to a pupil who is an alleged victim of an incident reported pursuant to this paragraph.

(d) If an incident is reported pursuant to this paragraph, a requirement that school officials provide a pupil who is an alleged victim of the incident with a written copy of the rights, protections and support services available to that pupil.

(e) A formal process for the documentation of documented incidents of harassment, intimidation or bullying and PROVIDING for the confidentiality, maintenance and disposition of this documentation. School districts shall maintain documentation of all incidents reported pursuant to this paragraph for at least six years. The school shall not use that documentation to impose disciplinary action unless the appropriate school official has investigated and determined that the reported incidents of harassment, intimidation or bullying occurred. If a school provides documentation of reported incidents to persons other than school officials or law enforcement, all individually identifiable information shall be redacted.
Ch. 260  
(f) A formal process for the investigation by the appropriate school officials TO INVESTIGATE suspected incidents of harassment, intimidation or bullying, including procedures for notifying the alleged victim and the alleged victim's parent or guardian when a school official or employee becomes aware of the suspected incident of harassment, intimidation or bullying.

(g) Disciplinary procedures for pupils who have admitted or been found to have committed incidents of harassment, intimidation or bullying.

(h) A procedure that sets forth consequences for submitting false reports of incidents of harassment, intimidation or bullying.

(i) Procedures designed to protect the health and safety of pupils who are physically harmed as the result of incidents of harassment, intimidation and bullying, including, if appropriate, procedures to contact emergency medical services or law enforcement agencies, or both.

(j) Definitions of harassment, intimidation and bullying.

37. Prescribe and enforce policies and procedures regarding changing or adopting attendance boundaries that include the following components:

(a) A procedure for holding public meetings to discuss attendance boundary changes or adoptions that allows public comments.

(b) A procedure to notify the parents or guardians of the students affected, INCLUDING ASSURANCE THAT, IF THAT SCHOOL REMAINS OPEN AS PART OF THE BOUNDARY CHANGE AND CAPACITY IS AVAILABLE, STUDENTS ASSIGNED TO A NEW ATTENDANCE AREA MAY STAY ENROLLED IN THEIR CURRENT SCHOOL.

(c) A procedure to notify the residents of the households affected by the attendance boundary changes.

(d) A process for placing public meeting notices and proposed maps on the school district's website for public review, if the school district maintains a website.

(e) A formal process for presenting the attendance boundaries of the affected area in public meetings that allows public comments.

(f) A formal process for notifying the residents and parents or guardians of the affected area as to the decision of the governing board on the school district's website, if the school district maintains a website.

(g) A formal process for updating attendance boundaries on the school district's website within ninety days of AFTER an adopted boundary change. The school district shall send a direct link to the school district's attendance boundaries website to the department of real estate.

38. If the state board of education determines that the school district has committed an overexpenditure as defined in section 15-107, provide a copy of the fiscal management report submitted pursuant to section 15-107, subsection H on its website and make copies available to the public on request. The school district shall comply with a request within five business days after receipt.

39. Ensure that the contract for the superintendent is structured in a manner in which up to twenty percent of the total annual salary included for the superintendent in the contract is classified as performance pay. This paragraph does not require school districts to increase total compensation for superintendents. Unless the school district governing board votes to implement an alternative procedure at a public meeting called
for this purpose, the performance pay portion of the superintendent's total annual compensation shall be determined as follows:

(a) Twenty-five percent of the performance pay shall be determined based on the percentage of academic gain determined by the department of education of pupils who are enrolled in the school district compared to the academic gain achieved by the highest ranking of the fifty largest school districts in this state. For the purposes of this subdivision, the department of education shall determine academic gain by the academic growth achieved by each pupil who has been enrolled at the same school in a school district for at least five consecutive months measured against that pupil's academic results in the 2008-2009 school year. For the purposes of this subdivision, of the fifty largest school districts in this state, the school district with pupils who demonstrate the highest statewide percentage of overall academic gain measured against academic results for the 2008-2009 school year shall be assigned a score of 100 and the school district with pupils who demonstrate the lowest statewide percentage of overall academic gain measured against academic results for the 2008-2009 school year shall be assigned a score of 0.

(b) Twenty-five percent of the performance pay shall be determined by the percentage of parents of pupils who are enrolled at the school district who assign a letter grade of "A" to the school on a survey of parental satisfaction with the school district. The parental satisfaction survey shall be administered and scored by an independent entity that is selected by the governing board and that demonstrates sufficient expertise and experience to accurately measure the results of the survey. The parental satisfaction survey shall use standard random sampling procedures and provide anonymity and confidentiality to each parent who participates in the survey. The letter grade scale used on the parental satisfaction survey shall direct parents to assign one of the following letter grades:

(i) A letter grade of "A" if the school district is excellent.
(ii) A letter grade of "B" if the school district is above average.
(iii) A letter grade of "C" if the school district is average.
(iv) A letter grade of "D" if the school district is below average.
(v) A letter grade of "F" if the school district is a failure.

(c) Twenty-five percent of the performance pay shall be determined by the percentage of teachers who are employed at the school district and who assign a letter grade of "A" to the school on a survey of teacher satisfaction with the school. The teacher satisfaction survey shall be administered and scored by an independent entity that is selected by the governing board and that demonstrates sufficient expertise and experience to accurately measure the results of the survey. The teacher satisfaction survey shall use standard random sampling procedures and provide anonymity and confidentiality to each teacher who participates in the survey. The letter grade scale used on the teacher satisfaction survey shall direct teachers to assign one of the following letter grades:

(i) A letter grade of "A" if the school district is excellent.
(ii) A letter grade of "B" if the school district is above average.
(iii) A letter grade of "C" if the school district is average.
(iv) A letter grade of "D" if the school district is below average.
(v) A letter grade of "F" if the school district is a failure.
(d) Twenty-five percent of the performance pay shall be determined by other criteria selected by the governing board.

40. Maintain and store permanent public records of the school district as required by law. Notwithstanding section 39-101, the standards adopted by the Arizona state library, archives and public records for the maintenance and storage of school district public records shall allow school districts to elect to satisfy the requirements of this paragraph by maintaining and storing these records either on paper or in an electronic format, or a combination of a paper and electronic format.

41. Adopt in a public meeting and implement policies for principal evaluations. Before adopting principal evaluation policies, the school district governing board shall provide opportunities for public discussion on the proposed policies. The governing board shall adopt policies that:
(a) Are designed to improve principal performance and improve student achievement.
(b) Include the use of quantitative data on the academic progress for all students, which shall account for between twenty percent and thirty-three percent of the evaluation outcomes.
(c) Include four performance classifications, designated as highly effective, effective, developing and ineffective.
(d) Describe both of the following:
(i) The methods used to evaluate the performance of principals, including the data used to measure student performance and job effectiveness.
(ii) The formula used to determine evaluation outcomes.

42. Prescribe and enforce policies and procedures that define the duties of principals and teachers. These policies and procedures shall authorize teachers to take and maintain daily classroom attendance, make the decision to promote or retain a pupil in a grade in common school or to pass or fail a pupil in a course in high school, subject to review by the governing board in the manner provided in section 15-342, paragraph 11.

43. Prescribe and enforce policies and procedures for the emergency administration by an employee of a school district pursuant to section 36-2267 of naloxone hydrochloride or any other opioid antagonist approved by the United States food and drug administration.

44. In addition to the notification requirements prescribed in paragraph 36 of this subsection, prescribe and enforce reasonable and appropriate policies to notify a pupil's parent or guardian if any person engages in harassing, threatening or intimidating conduct against that pupil. A school district and its officials and employees are immune from civil liability with respect to all decisions made and actions taken that are based on good faith implementation of the requirements of this paragraph, except in cases of gross negligence or wanton or wilful neglect. A person engages in threatening or intimidating if the person threatens or intimidates by word or conduct to cause physical injury to another person or serious damage to the property of another on school grounds. A person engages in harassment if, with intent to harass or with knowledge that the person is harassing another person, the person anonymously or otherwise
contacts, communicates or causes a communication with another person by verbal, electronic, mechanical, telephonic or written means in a manner that harasses on school grounds or substantially disrupts the school environment.

45. EACH FISCAL YEAR, PROVIDE TO EACH SCHOOL DISTRICT EMPLOYEE A TOTAL COMPENSATION STATEMENT THAT IS BROKEN DOWN BY CATEGORY OF BENEFIT OR PAYMENT AND THAT INCLUDES, FOR THAT EMPLOYEE, AT LEAST ALL OF THE FOLLOWING:
(a) BASE SALARY AND ANY ADDITIONAL PAY.
(b) MEDICAL BENEFITS AND THE VALUE OF ANY EMPLOYER-PAID PORTIONS OF INSURANCE PLAN PREMIUMS.
(c) RETIREMENT BENEFIT PLANS, INCLUDING SOCIAL SECURITY.
(d) LEGALLY REQUIRED BENEFITS.
(e) ANY PAID LEAVE.
(f) ANY OTHER PAYMENT MADE TO OR ON BEHALF OF THE EMPLOYEE.
(g) ANY OTHER BENEFIT PROVIDED TO THE EMPLOYEE.

B. Notwithstanding subsection A, paragraphs 7, 9 and 11 of this section, the county school superintendent may construct, improve and furnish school buildings or purchase or sell school sites in the conduct of an accommodation school.

C. If any school district acquires real or personal property, whether by purchase, exchange, condemnation, gift or otherwise, the governing board shall pay to the county treasurer any taxes on the property that were unpaid as of the date of acquisition, including penalties and interest. The lien for unpaid delinquent taxes, penalties and interest on property acquired by a school district:
1. Is not abated, extinguished, discharged or merged in the title to the property.
2. Is enforceable in the same manner as other delinquent tax liens.

D. The governing board may not locate a school on property that is less than one-fourth mile from agricultural land regulated pursuant to section 3-365, except that the owner of the agricultural land may agree to comply with the buffer zone requirements of section 3-365. If the owner agrees in writing to comply with the buffer zone requirements and records the agreement in the office of the county recorder as a restrictive covenant running with the title to the land, the school district may locate a school within the affected buffer zone. The agreement may include any stipulations regarding the school, including conditions for future expansion of the school and changes in the operational status of the school that will result in a breach of the agreement.

E. A school district, its governing board members, its school council members and its employees are immune from civil liability for the consequences of adoption and implementation of policies and procedures pursuant to subsection A of this section and section 15-342. This waiver does not apply if the school district, its governing board members, its school council members or its employees are guilty of gross negligence or intentional misconduct.

F. A governing board may delegate in writing to a superintendent, principal or head teacher the authority to prescribe procedures that are consistent with the governing board's policies.
G. Notwithstanding any other provision of this title, a school district governing board shall not take any action that would result in a reduction of pupil square footage unless the governing board notifies the school facilities OVERSIGHT board established by section 15-2011 41-5701.02 of the proposed action and receives written approval from the school facilities OVERSIGHT board to take the action. A reduction includes an increase in administrative space that results in a reduction of pupil square footage or sale of school sites or buildings, or both. A reduction includes a reconfiguration of grades that results in a reduction of pupil square footage of any grade level. This subsection does not apply to temporary reconfiguration of grades to accommodate new school construction if the temporary reconfiguration does not exceed one year. The sale of equipment that results in a reduction that falls below the equipment requirements prescribed in section 15-2011 41-5711, subsection B is subject to commensurate withholding of school district district additional assistance monies pursuant to the direction of the school facilities OVERSIGHT board. Except as provided in section 15-342, paragraph 10, proceeds from the sale of school sites, buildings or other equipment shall be deposited in the school plant fund as provided in section 15-1102.

H. Subsections C through G of this section apply to a county board of supervisors and a county school superintendent when operating and administering an accommodation school.

I. A school district governing board may delegate authority in writing to the superintendent of the school district to submit plans for new school facilities to the school facilities OVERSIGHT board for the purpose of certifying that the plans meet the minimum school facility adequacy guidelines prescribed in section 15-2011 41-5711.

J. FOR THE PURPOSES OF SUBSECTION A, PARAGRAPH 37 OF THIS SECTION, ATTENDANCE BOUNDARIES MAY NOT BE USED TO REQUIRE STUDENTS TO ATTEND CERTAIN SCHOOLS BASED ON THE STUDENT'S PLACE OF RESIDENCE.
EXPLANATION OF BLEND
SECTION 15-342

Laws 2021, Chapters 404 and 437

Laws 2021, Ch. 404, section 11                  Effective September 29, 2021
Laws 2021, Ch. 437, section 1                  Effective September 29, 2021

Explanation

Since these two enactments are compatible, the Laws 2021, Ch. 404 and Ch. 437 text changes to section 15-342 are blended in the form shown on the following pages.

The Laws 2021, Ch. 404 version of section 15-342 made a technical change to paragraph 31 in a different manner than the Ch. 437 version. Since this would not produce a substantive change, the blend version reflects the Ch. 404 version.
15-342. Discretionary powers
The governing board may:
1. Expel pupils for misconduct.
2. Exclude from grades one through eight children under six years of age.
3. Make such separation of groups of pupils as it deems advisable.
4. Maintain such special schools during vacation as deemed necessary for the benefit of the pupils of the school district.
5. Permit a superintendent or principal or representatives of the superintendent or principal to travel for a school purpose, as determined by a majority vote of the board. The board may permit members and members-elect of the board to travel within or without the school district for a school purpose and receive reimbursement. Any expenditure for travel and subsistence pursuant to this paragraph shall be as provided in title 38, chapter 4, article 2. The designated post of duty referred to in section 38-621 shall be construed, for school district governing board members, to be the member's actual place of residence, as opposed to the school district office or the school district boundaries. Such expenditures shall be a charge against the budgeted school district funds. The governing board of a school district shall prescribe procedures and amounts for reimbursement of lodging and subsistence expenses. Reimbursement amounts shall not exceed the maximum amounts established pursuant to section 38-624, subsection C.
6. Construct or provide in rural districts housing facilities for teachers and other school employees that the board determines are necessary for the operation of the school.
7. Sell or lease to the state, a county, a city, another school district or a tribal government agency any school property required for a public purpose, provided the sale or lease of the property will not affect the normal operations of a school within the school district.
8. Annually budget and expend funds for membership in an association of school districts within this state.
9. Enter into leases or lease-purchase agreements for school buildings or grounds, or both, as lessee or as lessee, for periods of less than twenty years subject to voter approval for construction of school buildings as prescribed in section 15-341, subsection A, paragraph 7.
10. Subject to TITLE 41, chapter 15 of this title 56, sell school sites or enter into leases or lease-purchase agreements for school buildings and grounds, as lessor or as lessee, for a period of twenty years or more, but not to exceed ninety-nine years, if authorized by a vote of the school district electors in an election called by the governing board as provided in section 15-491, except that authorization by the school district electors in an election is not required if one of the following requirements is met:
   a) The market value of the school property is less than $50,000 or the property is procured through a renewable energy development agreement, an energy performance contract, which among other items
includes a renewable energy power service agreement, or a simplified energy performance contract pursuant to section 15-213.01.

(b) The buildings and sites are completely funded with monies distributed by THE SCHOOL FACILITIES DIVISION WITHIN THE DEPARTMENT OF ADMINISTRATION OR AT THE DIRECTION OF the school facilities OVERSIGHT board, OR ITS PREDECESSOR.

(c) The transaction involves the sale of improved or unimproved property pursuant to an agreement with the school facilities OVERSIGHT board in which the school district agrees to sell the improved or unimproved property and transfer the proceeds of the sale to the school facilities OVERSIGHT board in exchange for monies from the school facilities OVERSIGHT board for the acquisition of a more suitable school site. For a sale of property acquired by a school district prior to BEFORE July 9, 1998, a school district shall transfer to the school facilities OVERSIGHT board that portion of the proceeds that equals the cost of the acquisition of a more suitable school site. If there are any remaining proceeds after the transfer of monies to the school facilities OVERSIGHT board, a school district shall only use those remaining proceeds for future land purchases approved by the school facilities OVERSIGHT board, or for capital improvements not funded by the school facilities OVERSIGHT board for any existing or future facility.

(d) The transaction involves the sale of improved or unimproved property pursuant to a formally adopted plan and the school district uses the proceeds of this sale to purchase other property that will be used for similar purposes as the property that was originally sold, provided that IF the sale proceeds of the improved or unimproved property are used within two years after the date of the original sale to purchase the replacement property. If the sale proceeds of the improved or unimproved property are not used within two years after the date of the original sale to purchase replacement property, the sale proceeds shall be used towards payment of TOWARD PAYING any outstanding bonded indebtedness. If any sale proceeds remain after paying for outstanding bonded indebtedness, or if the district has no outstanding bonded indebtedness, sale proceeds shall be used to reduce the district's primary tax levy. A school district shall not use this subdivision unless all of the following conditions exist:

(i) The school district is the sole owner of the improved or unimproved property that the school district intends to sell.

(ii) The school district did not purchase the improved or unimproved property that the school district intends to sell with monies that were distributed pursuant to TITLE 41, chapter 16 of this title 56.

(iii) The transaction does not violate section 15-341, subsection 6.

11. Review the decision of a teacher to promote a pupil to a grade or retain a pupil in a grade in a common school or to pass or fail a pupil in a course in high school. The pupil has the burden of proof to overturn the decision of a teacher to promote, retain, pass or fail the pupil. In order to sustain the burden of proof, the pupil shall demonstrate to the governing board that the pupil has mastered the academic standards adopted by the state board of education pursuant to
sections 15-701 and 15-701.01. If the governing board overturns the
decision of a teacher pursuant to this paragraph, the governing board
shall adopt a written finding that the pupil has mastered the academic
standards. Notwithstanding title 38, chapter 3, article 3.1, the
governing board shall review the decision of a teacher to promote a
pupil to a grade or retain a pupil in a grade in a common school or to
pass or fail a pupil in a course in high school in executive session
unless a parent or legal guardian of the pupil or the pupil, if
emancipated, disagrees that the review should be conducted in executive
session and then the review shall be conducted in an open meeting. If
the review is conducted in executive session, the board shall notify the
teacher of the date, time and place of the review and shall allow the
teacher to be present at the review. If the teacher is not present at
the review, the board shall consult with the teacher before making its
decision. Any request, including the written request as provided in
section 15-341, the written evidence presented at the review and the
written record of the review, including the decision of the governing
board to accept or reject the teacher's decision, shall be retained by
the governing board as part of its permanent records.

12. Provide transportation or site transportation loading and
unloading areas for any child or children if deemed for the best interest
of the district, whether within or without the district, county or state.

13. Enter into intergovernmental agreements and contracts with
school districts or other governing bodies as provided in section 11-952.
Intergovernmental agreements and contracts between school districts or
between a school district and other governing bodies as provided in
section 11-952 are exempt from competitive bidding under the procurement
rules adopted by the state board of education pursuant to section 15-213.

14. Include in the curricula it prescribes for high schools in
the school district career and technical education, vocational education
and technology education programs and career and technical, vocational
and technology program improvement services for the high schools, subject
to approval by the state board of education. The governing board may
contract for the provision of career and technical, vocational and
technology education as provided in section 15-789.

15. Suspend a teacher or administrator from the teacher's or
administrator's duties without pay for a period of time of not to exceed
ten school days, if the board determines that suspension is warranted
pursuant to section 15-341, subsection A, paragraphs PARAGRAPH 21 and
OR 22.

16. Dedicate school property within an incorporated city or town
to \( \text{such} \) THAT city or town or within a county to that county for use as
a public right-of-way if both of the following apply:

(a) Pursuant to an ordinance adopted by \( \text{such} \) THE city, town or
county, there will be conferred \( \text{such} \) ON the school district privileges
and benefits that may include benefits related to zoning.

(b) The dedication will not affect the normal operation of any
school within the district.

17. Enter into option agreements for the purchase of school sites.

18. Donate surplus or outdated learning materials, educational
equipment and furnishings to nonprofit community organizations where IF
the governing board determines that the anticipated cost of selling the
learning materials, educational equipment or furnishings equals or
exceeds the estimated market value of the materials.

19. Prescribe policies for the assessment of TO ASSESS reasonable
fees for students to use district-provided parking facilities. The fees
are to be applied by the district solely against costs incurred in
operating or securing the parking facilities. Any policy adopted by the
governing board pursuant to this paragraph shall include a fee waiver
provision in appropriate cases of need or economic hardship.

20. Establish alternative EDUCATION programs that are
consistent with the laws of this state to educate pupils, including
pupils who have been reassigned pursuant to section 15-841, subsection
E or F.

21. Require a period of silence to be observed at the commencement
of the first class of the day in the schools. If a governing board
chooses to require a period of silence to be observed, the teacher in
charge of the room in which the first class is held shall announce that
a period of silence not to exceed one minute in duration will be observed
for meditation, and during that time no activities shall take place and
silence shall be maintained.

22. Require students to wear uniforms.

23. Exchange unimproved property or improved property, including
school sites. IF the governing board determines that the improved
property is unnecessary for the continued operation of the school
district without requesting authorization by a vote of the school
district electors AND if the governing board determines that the exchange
is necessary to protect the health, safety or welfare of pupils or IF the governing board determines that the exchange is based on sound
business principles for either:

(a) Unimproved or improved property of equal or greater value.
(b) Unimproved property that the owner contracts to improve if
the value of the property ultimately received by the school district is
of equal or greater value.

24. For common and high school pupils, assess reasonable fees for
optional extracurricular activities and programs conducted when the
common or high school is not in session, except that fees shall NOT
be charged for pupils' access to or use of computers or related
materials. For high school pupils, the governing board may assess
reasonable fees for fine arts and vocational education courses and for
optional services, equipment and materials offered to the pupils beyond
those required to successfully complete the basic requirements of any
other course, except that fees shall NOT be charged for pupils' access to or use of computers or related materials. Fees assessed pursuant to this paragraph shall be adopted at a public meeting after
notice has been given to all parents of pupils enrolled at schools in
the district and shall not exceed the actual costs of the activities,
programs, services, equipment or materials. The governing board shall
authorize principals to waive the assessment of all or part of a fee
assessed pursuant to this paragraph if it creates an economic hardship
for a pupil. For the purposes of this paragraph, "extracurricular
activity" means any optional, noncredit, educational or recreational
activity that supplements the education program of the school, whether offered before, during or after regular school hours.

25. Notwithstanding section 15-341, subsection A, paragraphs 7 and 9, construct school buildings and purchase or lease school sites, without a vote of the school district electors, if the buildings and sites are totally funded from one or more of the following:

(a) Monies in the unrestricted capital outlay fund, except that the estimated cost shall not exceed $250,000 for a district that utilizes USES section 15-949.

(b) Monies distributed from AT THE DIRECTION OF the school facilities OVERSIGHT board established by section 15-2001, 41-5701.02 OR BY THE SCHOOL FACILITIES DIVISION WITHIN THE DEPARTMENT OF ADMINISTRATION PURSUANT TO TITLE 41, CHAPTER 56.

(c) Monies specifically donated for the purpose of constructing school buildings.

This paragraph shall DOES not be construed to eliminate the requirement for an election to raise revenues for a capital outlay override pursuant to section 15-481 or a bond election pursuant to section 15-491.

26. Conduct a background investigation that includes a fingerprint check conducted pursuant to section 41-1750, subsection G for certificated personnel and personnel who are not paid employees of the school district, as a condition of employment. A school district may release the results of a background check to another school district for employment purposes. The school district may charge the costs of fingerprint checks to its fingerprinted employee, except that the school district may not charge the costs of fingerprint checks for personnel who are not paid employees of the school district.

27. Unless otherwise prohibited by law, sell advertising as follows:

(a) Advertisements shall be age appropriate and not contain promotion of any substance that is illegal for minors such as alcohol, tobacco and drugs or gambling. Advertisements shall comply with the state sex education policy of abstinence.

(b) Advertising approved by the governing board for the exterior of school buses may appear only on the sides of the bus in the following areas:

(i) The signs shall be below the seat level rub rail and not extend above the bottom of the side windows.

(ii) The signs shall be at least three inches from any required lettering, lamp, wheel well or reflector behind the service door or stop signal arm.

(iii) The signs shall not extend from the body of the bus so as to allow a handhold or present a danger to pedestrians.

(iv) The signs shall not interfere with the operation of any door or window.

(v) The signs shall not be placed on any emergency doors.

(c) The school district shall establish an advertisement fund that is composed of revenues from the sale of advertising. The monies in an advertisement fund are not subject to reversion.
28. Assess reasonable damage deposits to pupils in grades seven through twelve for the use of USING textbooks, musical instruments, band uniforms or other equipment required for academic courses. The governing board shall adopt policies on any damage deposits assessed pursuant to this paragraph at a public meeting called for this purpose after providing notice to all parents of pupils in grades seven through twelve in the school district. Principals of individual schools within the district may waive the damage deposit requirement for any textbook or other item if the payment of the damage deposit would create an economic hardship for the pupil. The school district shall return the full amount of the damage deposit for any textbook or other item if the pupil returns the textbook or other item in reasonably good condition within the time period prescribed by the governing board. For the purposes of this paragraph, "in reasonably good condition" means the textbook or other item is in the same condition as it was when the pupil received it, plus ordinary wear and tear.

29. Notwithstanding section 15-1105, expend surplus monies in the civic center school fund for maintenance and operations or unrestricted capital outlay if sufficient monies are available in the fund after meeting the needs of programs established pursuant to section 15-1105.

30. Notwithstanding section 15-1143, expend SPEND surplus monies in the community school program fund for maintenance and operations or unrestricted capital outlay if sufficient monies are available in the fund after meeting the needs of programs established pursuant to section 15-1142.

31. Adopt guidelines for TO STANDARDIZE the format of the school report cards required by section 15-746 for schools within the district.

32. Adopt policies that require parental notification when a law enforcement officer interviews a pupil on school grounds. Policies adopted pursuant to this paragraph shall not impede a peace officer from the performance of PERFORMING the peace officer's duties. If the school district governing board adopts a policy that requires parental notification:

(a) The policy may provide reasonable exceptions to the parental notification requirement.

(b) The policy shall set forth whether and under what circumstances a parent may be present when a law enforcement officer interviews the pupil, including reasonable exceptions to the circumstances under which a parent may be present when a law enforcement officer interviews the pupil, and shall specify a reasonable maximum time after a parent is notified that an interview of a pupil by a law enforcement officer may be delayed to allow the parent to be present.

33. Enter into voluntary partnerships with any party to finance with funds other than school district funds and cooperatively design school facilities that comply with the adequacy standards prescribed in section 15-2041 and the square footage per pupil requirements pursuant to section 15-2041 subsection D, paragraph 3, subdivision (b). The design plans and location of any such school facility shall be submitted to the school facilities Oversight board for approval pursuant to section 15-2041.
subsection 0. If the school facilities OVERSIGHT board approves the design plans and location of any such school facility, the party in partnership with the school district may cause to be constructed and the district may begin operating the school facility before monies are distributed from AT THE DIRECTION OF the school facilities OVERSIGHT board pursuant to section 15-2041 41-5741. Monies distributed from the new school facilities fund to a school district in a partnership with another party to finance and design the school facility shall be paid to the school district pursuant to section 15-2041 41-5741. The school district shall reimburse the party in partnership with the school district from the monies paid to the school district pursuant to section 15-2041 41-5741, in accordance with the voluntary partnership agreement. Before the school facilities OVERSIGHT board distributes DIRECTS THE DISTRIBUTION OF any monies pursuant to this subsection, the school district shall demonstrate to the school facilities OVERSIGHT board that the facilities to be funded pursuant to section 15-2041 41-5741, subsection 0 meet the minimum adequacy standards prescribed in section 15-2011 41-5711. If the cost to construct the school facility exceeds the amount that the school district receives from the new school facilities fund, the partnership agreement between the school district and the other party shall specify that, except as otherwise provided by the other party, any such excess costs shall be the responsibility of the school district. The school district governing board shall adopt a resolution in a public meeting that an analysis has been conducted on the prospective effects of the decision to operate a new school with existing monies from the school district's maintenance and operations budget and how this decision may affect other schools in the school district. If a school district acquires land by donation at an appropriate school site approved by the school facilities OVERSIGHT board and a school facility is financed and built on the land pursuant to this paragraph, the school facilities OVERSIGHT board shall distribute DIRECT THE DISTRIBUTION OF an amount equal to twenty percent of the fair market value of the land that can be used for academic purposes. The school district shall place the monies in the unrestricted capital outlay fund and increase the unrestricted capital budget limit by the amount of the monies placed in the fund. Monies distributed under this paragraph shall be distributed from the new school facilities fund pursuant to section 15-2041 41-5741. If a school district acquires land by donation at an appropriate school site approved by the school facilities OVERSIGHT board and a school facility is financed and built on the land pursuant to this paragraph, the school district shall not receive monies from the school facilities board for the donation of real property pursuant to section 15-2041 41-5741, subsection F. It is unlawful for:

(a) A county, city or town to require as a condition of any land use approval that a landowner or landowners that entered into a partnership pursuant to this paragraph provide any contribution, donation or gift, other than a site donation, to a school district. This subdivision only applies to the property in the voluntary partnership agreement pursuant to this paragraph.
(b) A county, city or town to require as a condition of any land use approval that the landowner or landowners located within the geographic boundaries of the school subject to the voluntary partnership pursuant to this paragraph provide any donation or gift to the school district except as provided in the voluntary partnership agreement pursuant to this paragraph.

(c) A community facilities district established pursuant to title 48, chapter 4, article 6 to be used for reimbursement of financing the construction of a school pursuant to this paragraph.

(d) A school district to enter into an agreement pursuant to this paragraph with any party other than a master planned community party. Any land area consisting of at least three hundred twenty acres that is the subject of a development agreement with a county, city or town entered into pursuant to section 9-500.05 or 11-1101 shall be deemed to be a master planned community. For the purposes of this subdivision, "master planned community" means a land area consisting of at least three hundred twenty acres, which may be noncontiguous, that is the subject of a zoning ordinance approved by the governing body of the county, city or town in which the land is located that establishes the use of the land area as a planned area development or district, planned community development or district, planned unit development or district or other land use category or district that is recognized in the local ordinance of such county, city or town and that specifies the use of such land is for a master planned development.

34. Enter into an intergovernmental agreement with a presiding judge of the juvenile court to implement a law-related education program as defined in section 15-154. The presiding judge of the juvenile court may assign juvenile probation officers to participate in a law-related education program in any school district in the county. The cost of juvenile probation officers who participate in the program implemented pursuant to this paragraph shall be funded by the school district.

35. Offer to sell outdated learning materials, educational equipment or furnishings at a posted price commensurate with the value of the items to pupils who are currently enrolled in that school district before those materials are offered for public sale.

36. If the school district is a small school district as defined in section 15-901, and if permitted ALLOWED by federal law, opt out of federal grant opportunities if the governing board determines that the federal requirements impose unduly burdensome reporting requirements.

37. Prescribe and enforce policies and procedures for the emergency administration of inhalers by trained employees of the school district and nurses who are under contract with the school district pursuant to section 15-158.

38. Develop policies and procedures to allow principals to budget for or assist with budgeting federal, state and local monies.

39. SUBJECT TO ARTICLE IX, SECTION 7, CONSTITUTION OF ARIZONA, THE LAWS PERTAINING TO TRAVEL AND SUBSISTENCE, GIFTS, GRANTS, INCLUDING FEDERAL GRANTS, OR DEVICES AND POLICIES ADOPTED BY THE DEPARTMENT OF EDUCATION, PROVIDE FOOD AND BEVERAGES AT SCHOOL DISTRICT EVENTS, INCLUDING OFFICIAL SCHOOL FUNCTIONS AND TRAININGS.
EXPLANATION OF BLEND
SECTION 15-393

Laws 2021, Chapters 252 and 404

Laws 2021, Ch. 252, section 1  Effective September 29, 2021
Laws 2021, Ch. 404, section 14  Effective September 29, 2021

Explanation

Since these two enactments are compatible, the Laws 2021, Ch. 252 and Ch. 404 text changes to section 15-393 are blended in the form shown on the following pages.

Section 15-393 was amended an additional time by Laws 2021, Ch. 416, which was not included in this blend due to text changes that are not compatible with Laws 2021, Ch. 404. Therefore, section 15-393 was blended an additional time to include the changes made by Laws 2021, Ch. 252 and Ch. 416, and that blend version will be published separately in addition to this blend.
15-393. Career technical education district governing board: report; definitions

A. The management and control of a career technical education district are vested in the career technical education district governing board, including the content and quality of the courses offered by the district, the quality of teachers who provide instruction on behalf of the district, the salaries of teachers who provide instruction on behalf of the district and the reimbursement of other entities for the facilities used by the district. This section does not restrict a school district from offering any career and technical education course that does not qualify for funding as a career technical education course or career technical education district program. Unless the governing boards of the school districts participating in the formation of the career technical education district vote to implement an alternative election system as provided in subsection B of this section, the career technical education board shall consist consists of five members elected from five single member districts formed within the career technical education district. The single member district election system shall be submitted as part of the plan for the career technical education district pursuant to section 15-392 and shall be established in the plan as follows:

1. The governing boards of the school districts participating in the formation of the career technical education district shall define the boundaries of the single member districts so that the single member districts are as nearly equal in population as is practicable, except that if the career technical education district lies in part in each of two or more counties, at least one single member district may be entirely within each of the counties comprising the career technical education district if this district design is consistent with the obligation to equalize the population among single member districts.

2. The boundaries of each single member district shall follow election precinct boundary lines, as far as practicable, in order to avoid further segmentation of the precincts.

3. A person who is a registered voter of this state and who has been a resident of the single member district for at least one year immediately preceding the date of the election is eligible for election to the office of career technical education board member from the single member district. The terms of office of the members of the career technical education board shall be as prescribed in section 15-427, subsection B. An employee of a career technical education district or the spouse of an employee shall not hold membership on a governing board of a career technical education district by which the employee is employed. A member of one school district governing board or career technical education district governing board is ineligible to be a candidate for nomination or election to or serve simultaneously as a member of any other governing board, except that a member of a governing board may be a candidate for nomination or election for any other governing board if the member is serving in the last year of a term of office. A member of a governing board shall resign the
member's seat on the governing board before becoming a candidate for nomination or election to the governing board of any other school district or career technical education district, unless the member of the governing board is serving in the last year of a term of office. Members of a career technical education district governing board are subject to the conflict of interest requirements prescribed in section 38-503.

4. Nominating petitions shall be signed by the number of qualified electors of the single member district as provided in section 16-322.

B. The governing boards of the school districts participating in the formation of the career technical education district may vote to implement any other alternative election system for the election of career technical education district board members. If an alternative election system is selected, it shall be submitted as part of the plan for the career technical education district pursuant to section 15-392, and the implementation of the system shall be as approved by the United States justice department.

C. The Career technical education district shall be DISTRICTS ARE subject to the following provisions of this title:

1. Chapter 1, articles 1 through 6.
3. Articles 2, 3 and 5 of this chapter.
4. Section 15-361.
5. Chapter 4, articles 1, 2 and 5.
6. Chapter 5, articles 1 and 3.
8. Chapter 7, article 5.
9. Chapter 8, articles 1, 3 and 4.
11. Chapter 9, article 1, article 6, except for section 15-995, and article 7.
14. Chapter 10, articles 2, 3, 4 and 8.

D. Notwithstanding subsection C of this section, the following apply to a career technical education district:

1. A career technical education district may issue bonds for the purposes specified in section 15-1021 and in chapter 4, article 5 of this title to an amount in the aggregate, including the existing indebtedness, not exceeding one percent of the net assessed value of the full cash value of the property within the career technical education district. For the purposes of this paragraph, "full cash value" and "net assessed value" have the same meanings prescribed in section 42-11001.

2. The number of governing board members for a career technical education district shall be as prescribed in subsection A of this section.

3. The student count for the first year of operation of a career technical education district as provided in this article shall be determined as follows:

(a) Determine the estimated student count for career technical education district classes that will operate in the first year of operation. This estimate shall be based on actual registration of pupils as of March
30 scheduled to attend classes that will be operated by the career technical education district. The student count for the school district of residence of the pupils registered at the career technical education district shall be adjusted. The adjustment shall cause the school district of residence to reduce the student count for the pupil to reflect the courses to be taken at the career technical education district. The school district of residence shall review and approve the adjustment of its own student count as provided in this subdivision before the pupils from the school district can be added to the student count of the career technical education district.

(b) The student count for the new career technical education district shall be the student count as determined in subdivision (a) of this paragraph.

(c) For the first year of operation, the career technical education district shall revise the student count to the actual average daily membership as prescribed in section 15-901, subsection A, paragraph 1 for students attending classes in the career technical education district. A career technical education district shall revise its student count, the base support level as provided in section 15-943.02, the revenue control limit as provided in section 15-944.01 and the district additional assistance as provided in section 15-962.01 before May 15. A career technical education district that overestimated its student count shall revise its budget before May 15. A career technical education district that underestimated its student count may revise its budget before May 15.

(d) After March 15 of the first year of operation, the school district of residence shall adjust its student count by reducing it to reflect the courses actually taken at the career technical education district. The school district of residence shall revise its student count, the base support level as provided in section 15-943, the revenue control limit as provided in section 15-944 and the district additional assistance as provided in section 15-962.01 prior to May 15. A district that underestimated the student count for students attending the career technical education district shall revise its budget before May 15. A district that overestimated the student count for students attending the career technical education district may revise its budget before May 15.

(e) The procedures for implementing this paragraph shall be as prescribed in the uniform system of financial records.

(f) Pupils in an approved career technical education district centralized program may generate an average daily membership of 1.0 during any day of the week and at any time between July 1 and June 30 of each fiscal year.

For the purposes of this paragraph, "school district of residence" means the school district that included the pupil in its average daily membership for the year before the first year of operation of the career technical education district and that would have included the pupil in its student count for the purposes of computing its base support level for the fiscal year of the first year of operation of the career technical education district if the pupil had not enrolled in the career technical education district.
4. A student includes any person enrolled in the career technical education district without regard to the person's age or high school graduation status, except that:

(a) A student in a kindergarten program or in any of grades one through eight who enrolls in courses offered by the career technical education district shall not be included in the career technical education district's student count or average daily membership.

(b) A student in a kindergarten program or in any of grades one through eight who is enrolled in career and technical education courses shall not be funded in whole or in part with monies provided by a career technical education district, except that a pupil in grade eight or ninth may be funded with monies generated by the five-cent $.05 qualifying tax rate authorized in subsection F of this section.

(c) A student who has graduated from high school or received a general equivalency diploma or who is over twenty-one years of age shall not be included in the student count of the career technical education district for the purposes of chapter 9, articles 3, 4 and 5 of this title.

(d) A student who is enrolled in any internship course as part of a career technical education district program shall not be included in the student count of the career technical education district for that internship course for the purposes of chapter 9, articles 3, 4 and 5 of this title.

5. A career technical education district may operate for more than one hundred eighty days per year, with expanded hours of service.

6. A career technical education district may use the carryforward provisions of section 15-943.01.

7. A school district that is part of a career technical education district shall use any monies received pursuant to this article to supplement and not supplant base year career and technical education courses, and directly related equipment and facilities, except that a school district that is part of a career technical education district and that has used monies received pursuant to this article to supplant career and technical education courses that were offered before the first year that the school district participated in the career technical education district or the first year that the school district used monies received pursuant to this article or that used the monies for purposes other than for career and technical education courses shall use one hundred percent of the monies received pursuant to this article to supplement and not supplant base year career and technical education courses. Each applicable school district shall provide a report to the career technical education board and the department of education outlining the required maintenance of effort and how monies were used to supplement and not supplant base year career and technical education courses and directly related equipment and facilities.

8. A career technical education district shall use any monies received pursuant to this article to enhance and not supplant career and technical education courses and directly related equipment and facilities.

9. A career technical education district or a school district that is part of a career technical education district or a charter school shall only include pupils in grades ten through twelve and pupils in the school year immediately following graduation in the calculation of student count or average daily membership if the pupils are enrolled in courses that
are approved jointly by the governing board of the career technical education district and each participating school district or charter school for satellite courses taught within the participating school district or charter school, or approved solely by the career technical education district for centrally located courses. FUNDING MAY BE PROVIDED FOR NOT MORE THAN FOUR YEARS FOR THE SAME STUDENT. Student count and average daily membership from courses that are not part of an approved program for career and technical education shall not be included in student count and average daily membership of a career technical education district.

E. The career technical education board shall appoint a superintendent as the executive officer of the career technical education district.

F. Taxes may be levied for the support of the career technical education district as prescribed in chapter 9, article 6 of this title, except that a career technical education district shall not levy a property tax pursuant to law that exceeds five cents $.05 per one hundred dollars $100 assessed valuation except for bond monies pursuant to subsection D, paragraph 1 of this section. Except for the taxes levied pursuant to section 15-994, such taxes shall be obtained from a levy of taxes on the taxable property used for secondary tax purposes.

G. The schools in the career technical education district are available to all persons who reside in the career technical education district and to pupils whose school district of residence within this state is paying tuition on behalf of the pupils to a district of attendance that is a member of the career technical education district, subject to the rules for admission prescribed by the career technical education board.

H. The career technical education board may collect tuition for adult students and the attendance of pupils who are residents of school districts that are not participating in the career technical education district pursuant to arrangements made between the governing board of the school district and the career technical education board.

I. The career technical education board may accept gifts, grants, federal monies, tuition and other allocations of monies to erect, repair and equip buildings and for the cost of operating the schools of the career technical education district.

J. One member of the career technical education board shall be selected chairman. The chairman shall be selected annually on a rotation basis from among the participating school districts. The chairman of the career technical education board shall be a voting member.

K. A career technical education board and a community college district may enter into agreements TO PROVIDE for the provision of administrative, operational and educational services and facilities.

L. Any agreement between the governing board of a career technical education district and another career technical education district, a school district, a charter school or a community college district shall be in the form of an intergovernmental agreement or other written contract. The auditor general shall modify the uniform system of financial records and budget forms in accordance with this subsection. The intergovernmental agreement or other written contract shall completely and accurately specify each of the following:
1. The financial provisions of the intergovernmental agreement or other written contract and the format for the billing of all services.

2. The accountability provisions of the intergovernmental agreement or other written contract.

3. The responsibilities of each career technical education district, each school district, each charter school and each community college district that is a party to the intergovernmental agreement or other written contract.

4. The type of instruction that will be provided under the intergovernmental agreement or other written contract, including individualized education programs pursuant to section 15-763.

5. The quality of the instruction that will be provided under the intergovernmental agreement or other written contract.

6. The transportation services that will be provided under the intergovernmental agreement or other written contract and the manner in which transportation costs will be paid.

7. The amount that the career technical education district will contribute to a course and the amount of support required by the school district, THE CHARTER SCHOOL or the community college.

8. That the services provided by the career technical education district, the school district, the charter school or the community college district be proportionally calculated in the cost of delivering the service.

9. That the payment for services shall not exceed the cost of the services provided.

10. That the career technical education district will provide the following minimum services for all member districts:

(a) Professional development of career and technical teachers in the career technical education district who are teaching programs or courses at a satellite campus.

(b) Ongoing evaluation and support of satellite campus programs and courses to ensure quality and compliance.

11. An itemized listing of other goods and services that are provided to the member district and that are paid for by the retention of satellite campus student funding.

M. A member school district or charter school may not submit requests for the approval TO APPROVE or addition of ADD satellite campus career technical education district programs or courses directly to the career and technical education division of the department of education, but shall submit all appropriate application documentation and materials for programs or courses to the career technical education district. On approval from the career technical education board, a career technical education district shall only submit requests for the approval TO APPROVE or addition of ADD satellite campus career technical education district programs or courses directly to the career and technical education division of the department of education, which shall determine whether the criteria prescribed in section 15-391, paragraphs 2 and 4 have been met. If the career and technical education division of the department of education determines that a course does not meet the criteria for approval as a career technical education course, the governing board of the career technical education district may
appeal this decision to the state board of education acting as the state board of vocational education.

N. Notwithstanding any other law, the average daily membership for a pupil who is enrolled in a career technical education course and who does not meet the criteria specified in subsection P or Q of this section shall be 0.25 for each course, except the sum of the average daily membership shall not exceed the limits prescribed by subsection D, P or Q of this section, as applicable.

Q. If a career and technical education course or program is provided on a satellite campus, the sum of the average daily membership, as provided in section 15-901, subsection A, paragraph 1, for that pupil in the school district or charter school and career technical education district shall not exceed 1.25. The school district or charter school and the career technical education district shall determine the apportionment of the average daily membership for that pupil between the school district or charter school and the career technical education district. A pupil who attends a course or program at a satellite campus and who is not enrolled in the school district or charter school where the satellite campus is located may generate the average daily membership pursuant to this subsection if the pupil is enrolled in a school district that is a member district in the same career technical education district.

P. The sum of the average daily membership of a pupil who is enrolled in both the school district and career technical education course or career technical education program provided at by a community college pursuant to subsection K of this section or at a centralized campus shall not exceed 1.75. The member school district and the career technical education district shall determine the apportionment of the average daily membership and student enrollment for that pupil between the member school district and the career technical education district, except that the amount apportioned shall not exceed 1.0 for either entity. Notwithstanding any other law, the average daily membership for a pupil who is in grade NINE, ten, eleven or twelve or in the school year immediately following graduation and who is enrolled in a course that meets for at least one hundred fifty minutes per class period at a centralized campus shall be 0.75. Students in an approved career technical education district centralized campus program may generate an average daily membership during any day of the week and at any time between July 1 and June 30 of each fiscal year. To qualify for funding pursuant to this subsection, a centralized campus shall offer programs and courses to all eligible students in each member district of the career technical education district.

Q. The average daily membership for a pupil who is in grade NINE, ten, eleven or twelve or in the school year immediately following graduation and who is enrolled in a course that meets for at least one hundred fifty minutes per class period at a leased centralized campus shall not exceed 0.75. Students in an approved career technical education district leased campus centralized program may generate an average daily membership during any day of the week and at any time between July 1 and June 30 of each fiscal year. The sum of the average daily membership, as provided in section 15-901, subsection A, paragraph 1, of a pupil who is enrolled in both the school district and in career technical education courses provided at a
leased centralized campus shall not exceed 1.75 if all of the following conditions are met:

1. The course qualifies as a career technical education course.
2. The course is offered to all eligible students in each member district of the career technical education district and enrolls students from multiple high schools.
3. The career technical education district program in which the course is included addresses a specific industry need and has been developed in cooperation with that industry, or the leased facility is a state or federal asset that would otherwise be unused or underutilized.
4. The lease is established at fair market value if the lease is executed for a facility located on the site of a member district and was approved by the joint committee on capital review, except that a lease that was executed or renewed before December 31, 2012 is not subject to approval by the joint committee on capital review.

R. A student who is enrolled in an accommodation school may be treated as a student of the school district in which the student physically resides for the purposes of enrollment in a career technical education district and shall be included in the calculation of average daily membership for either the career technical education district or the accommodation school, or both.

S. Notwithstanding any other law, the student count for a career technical education district shall be equivalent to the career technical education district's average daily membership.

T. A school district or charter school may not prohibit or discourage students who are enrolled in that school district or charter school from attending courses offered by a career technical education district, including requiring students to generate a full 1.0 average daily membership or to enroll in more courses than are needed to graduate before enrolling in and attending programs or courses offered by a career technical education district.

U. The governing board of the career technical education district may contract with any charter school that is located within the boundaries of the career technical education district to allow that charter school to offer career and technical education courses or programs as a satellite campus.

V. Beginning in 2020 and every five years thereafter, the career and technical education division of the department of education shall review career technical education district programs and career technical education courses to ensure compliance, quality and eligibility. Any program or course deemed to not meet the requirements set forth by law shall not be funded for the current school year and shall be removed from the approved program and course list for the purposes of funding. The career and technical education division may establish a staggered schedule for reviewing each career technical education district.

W. NOTWITHSTANDING SUBSECTION D, PARAGRAPHS 4 AND 9 AND SUBSECTIONS P AND Q OF THIS SECTION, FOR A STUDENT IN GRADE NINE, FUNDING SHALL BE PROVIDED PURSUANT TO THIS SECTION ONLY IF THE STUDENT REACHES THE FOURTIETH DAY OF GRADE ELEVEN ENROLLED IN AN APPROVED CAREER TECHNICAL EDUCATION PROGRAM AND MEETS THE REQUIREMENTS PRESCRIBED IN SUBSECTION Y OF THIS
SECTION. AT THAT TIME FUNDING SHALL BE PROVIDED FOR THAT STUDENT FOR GRADE NINE AND FOR ANY SUBSEQUENT YEAR IN WHICH THE STUDENT IS ELIGIBLE FOR FUNDING PURSUANT TO THIS SECTION.

X. ON OR BEFORE SEPTEMBER 1 OF EACH YEAR, THE OFFICE OF ECONOMIC OPPORTUNITY IN COLLABORATION WITH THE DEPARTMENT OF EDUCATION SHALL COMPILE AN IN-DEMAND REGIONAL EDUCATION LIST OF THE APPROVED CAREER TECHNICAL EDUCATION PROGRAMS THAT LEAD TO A CAREER PATH IN HIGH DEMAND WITH MEDIAN-TO-HIGH-WAGE JOBS IN THAT REGION. THE OFFICE OF ECONOMIC OPPORTUNITY SHALL INCORPORATE INDUSTRY FEEDBACK AS PART OF DEVELOPING THE IN-DEMAND REGIONAL EDUCATIONAL LIST. THE OFFICE OF ECONOMIC OPPORTUNITY SHALL SUBMIT THE IN-DEMAND REGIONAL EDUCATION LIST TO THE ARIZONA CAREER AND TECHNICAL EDUCATION QUALITY COMMISSION FOR REVIEW AND APPROVAL.

Y. NOTWITHSTANDING SUBSECTION D, PARAGRAPHS 4 AND 9 AND SUBSECTIONS P AND Q OF THIS SECTION, FOR A STUDENT IN GRADE NINE OR IN THE SCHOOL YEAR IMMEDIATELY FOLLOWING GRADUATION, FUNDING SHALL BE PROVIDED PURSUANT TO THIS SECTION ONLY IF THE STUDENT IS ENROLLED IN A PROGRAM THAT WAS INCLUDED ON THE IN-DEMAND REGIONAL EDUCATION LIST COMPILED PURSUANT TO SUBSECTION X OF THIS SECTION FOR THAT STUDENT'S REGION FOR THE YEAR IN WHICH THE STUDENT BEGAN THE PROGRAM.

1. "Base year" means the complete school year in which voters of a school district elected to join a career technical education district.

2. "Centralized campus" means a facility that is owned and operated by a career technical education district for the purpose of offering TO OFFER career technical education district programs or career technical education courses.

3. "Lease" means a written agreement in which the right of occupancy TO OCCUPY OR use of real property is conveyed from one person or entity to another person or entity for a specified period of time.

4. "Leased centralized campus" means a facility that is leased and operated by a career technical education district for the purpose of offering TO OFFER career technical education district programs or career technical education courses.

5. "Satellite campus" means a facility that is owned or operated by a school district or charter school for the purpose of offering TO OFFER career technical education district programs or career technical education courses.
EXPLANATION OF BLEND
SECTION 15-393

Laws 2021, Chapters 252 and 416

Laws 2021, Ch. 252, section 1  Effective September 29, 2021
Laws 2021, Ch. 416, section 2  Effective September 29, 2021

Explanation

Since these two enactments are compatible, the Laws 2021, Ch. 252 and Ch. 416 text changes to section 15-393 are blended in the form shown on the following pages.

The Laws 2021, Ch. 252 version of section 15-393 made a technical change to subsection K in a different manner than the Ch. 416 version. Since this would not produce a substantive change, the blend version reflects the Ch. 252 version.

Section 15-393 was amended an additional time by Laws 2021, Ch. 404, which was not included in this blend due to text changes that are not compatible with Laws 2021, Ch. 416. Therefore, section 15-393 was blended an additional time to include the changes made by Laws 2021, Ch. 252 and Ch. 404, and that blend version will be published separately in addition to this blend.
15-393. Career technical education district governing board: report; definitions

A. The management and control of a career technical education district are vested in the career technical education district governing board, including the content and quality of the courses offered by the district, the quality of teachers who provide instruction on behalf of the district, the salaries of teachers who provide instruction on behalf of the district and the reimbursement of other entities for the facilities used by the district. This section does not restrict a school district from offering any career and technical education course that does not qualify for funding as a career technical education course or career technical education district program. Unless the governing boards of the school districts participating in the formation of the career technical education district vote to implement an alternative election system as provided in subsection B of this section, the career technical education board shall consist of five members elected from five single member districts formed within the career technical education district. The single member district election system shall be submitted as part of the plan for the career technical education district pursuant to section 15-392 and shall be established in the plan as follows:

1. The governing boards of the school districts participating in the formation of the career technical education district shall define the boundaries of the single member districts so that the single member districts are as nearly equal in population as is practicable, except that if the career technical education district lies in part in each of two or more counties, at least one single member district may be entirely within each of the counties comprising the career technical education district if this district design is consistent with the obligation to equalize the population among single member districts.

2. The boundaries of each single member district shall follow election precinct boundary lines, as far as practicable, in order to avoid further segmentation of the precincts.

3. A person who is a registered voter of this state and who is a resident of the single member district for at least one year immediately preceding the date of the election is eligible for election to the office of career technical education board member from the single member district. The terms of office of the members of the career technical education board shall be as prescribed in section 15-427, subsection B. An employee of a career technical education district or the spouse of an employee shall not hold membership on a governing board of a career technical education district by which the employee is employed. A member of one school district governing board or career technical education district governing board is ineligible to be a candidate for nomination or election to or serve simultaneously as a member of any other governing board, except that a member of a governing board may be a candidate for nomination or election for any other governing board if the member is serving in the last year of a term of office. A member of a governing board shall resign the member's seat on the governing board before becoming a candidate for
nomination or election to the governing board of any other school district or career technical education district, unless the member of the governing board is serving in the last year of a term of office. Members of a career technical education district governing board are subject to the conflict of interest requirements prescribed in section 38-503.

4. Nominating petitions shall be signed by the number of qualified electors of the single member district as provided in section 16-322.

B. The governing boards of the school districts participating in the formation of the career technical education district may vote to implement any other alternative election system for the election of career technical education district board members. If an alternative election system is selected, it shall be submitted as part of the plan for the career technical education district pursuant to section 15-392, and the implementation of the system shall be as approved by the United States justice department.

C. The Career technical education district shall be DISTRICTS ARE subject to the following provisions of this title:
   1. Chapter 1, articles 1 through 6.
   3. Articles 2, 3 and 5 of this chapter.
   4. Section 15-361.
   5. Chapter 4, articles 1, 2 and 5.
   6. Chapter 5, articles 1 and 3.
   8. Chapter 7, article 5.
   9. Chapter 8, articles 1, 3 and 4.
   11. Chapter 9, article 1, article 6, except for section 15-995, and article 7.
   14. Chapter 10, articles 2, 3, 4 and 8.

D. Notwithstanding subsection C of this section, the following apply to a career technical education district:
   1. A career technical education district may issue bonds for the purposes specified in section 15-1021 and in chapter 4, article 5 of this title to an amount in the aggregate, including the existing indebtedness, not exceeding one percent of the net assessed value of the full cash value of the property within the career technical education district. For the purposes of this paragraph, "full cash value" and "net assessed value" have the same meanings prescribed in section 42-11001.
   2. The number of governing board members for a career technical education district shall be as prescribed in subsection A of this section.
   3. The student count for the first year of operation of a career technical education district as provided in this article shall be determined as follows:
      (a) Determine the estimated student count for career technical education district classes that will operate in the first year of operation. This estimate shall be based on actual registration of pupils as of March 30 scheduled to attend classes that will be operated by the
career technical education district. The student count for the school district of residence of the pupils registered at the career technical education district shall be adjusted. The adjustment shall cause the school district of residence to reduce the student count for the pupil to reflect the courses to be taken at the career technical education district. The school district of residence shall review and approve the adjustment of its own student count as provided in this subdivision before the pupils from the school district can be added to the student count of the career technical education district.

(b) The student count for the new career technical education district shall be the student count as determined in subdivision (a) of this paragraph.

(c) For the first year of operation, the career technical education district shall revise the student count to the actual average daily membership as prescribed in section 15-901, subsection A, paragraph 1 for students attending classes in the career technical education district. A career technical education district shall revise its student count, the base support level as provided in section 15-943.02, the revenue control limit as provided in section 15-944.01 and the district additional assistance as provided in section 15-962.01 before May 15. A career technical education district that overestimated its student count shall revise its budget before May 15. A career technical education district that underestimated its student count may revise its budget before May 15.

(d) After March 15 of the first year of operation, the school district of residence shall adjust its student count by reducing it to reflect the courses actually taken at the career technical education district. The school district of residence shall revise its student count, the base support level as provided in section 15-943, the revenue control limit as provided in section 15-944 and the district additional assistance as provided in section 15-962.01 prior to May 15. A district that underestimated the student count for students attending the career technical education district shall revise its budget before May 15. A district that overestimated the student count for students attending the career technical education district may revise its budget before May 15.

(e) The procedures for implementing this paragraph shall be as prescribed in the uniform system of financial records.

(f) Pupils in an approved career technical education district centralized program may generate an average daily membership of 1.0 during any day of the week and at any time between July 1 and June 30 of each fiscal year. For the purposes of this paragraph, "school district of residence" means the school district that included the pupil in its average daily membership for the year before the first year of operation of the career technical education district and that would have included the pupil in its student count for the purposes of computing its base support level for the fiscal year of the first year of operation of the career technical education district if the pupil had not enrolled in the career technical education district.

4. A student includes any person enrolled in the career technical education district without regard to the person's age or high school graduation status, except that:
(a) A student in a kindergarten program or in any of grades one through nine who enrolls in courses offered by the career technical education district shall not be included in the career technical education district's student count or average daily membership.

(b) A student is a kindergarten program or in any of grades one through nine who is enrolled in career and technical education courses shall not be funded in whole or in part with monies provided by a career technical education district, except that a pupil in grade eight or nine may be funded with monies generated by the fifty-cent $.05 qualifying tax rate authorized in subsection F of this section.

(c) A student who has graduated from high school or received a general equivalency diploma or who is over twenty-one years of age shall not be included in the student count of the career technical education district for the purposes of chapter 9, articles 3, 4 and 5 of this title.

(d) A student who is enrolled in any internship course as part of a career technical education district program shall not be included in the student count of the career technical education district for that internship course for the purposes of chapter 9, articles 3, 4 and 5 of this title.

5. A career technical education district may operate for more than one hundred eighty days per year, OR LESS, with expanded hours of service. THE EQUIVALENT NUMBER OF HOURS OF INSTRUCTION.

6. A career technical education district may use the carryforward provisions of section 15-943.01.

7. A school district that is part of a career technical education district shall use any monies received pursuant to this article to supplement and not supplant base year career and technical education courses, and directly related equipment and facilities, except that a school district that is part of a career technical education district and that has used monies received pursuant to this article to supplant career and technical education courses that were offered before the first year that the school district participated in the career technical education district or the first year that the school district used monies received pursuant to this article or that used the monies for purposes other than for career and technical education courses shall use one hundred percent of the monies received pursuant to this article to supplement and not supplant base year career and technical education courses. Each applicable school district shall provide a report to the career technical education board and the department of education outlining the required maintenance of effort and how monies were used to supplement and not supplant base year career and technical education courses and directly related equipment and facilities.

8. A career technical education district shall use any monies received pursuant to this article to enhance and not supplant career and technical education courses and directly related equipment and facilities.

9. A career technical education district or a school district that is part of a career technical education district or a charter school shall only include pupils in grades ten through twelve in the calculation of student count or average daily membership if the pupils are enrolled in courses that are approved jointly by the governing board of the career technical education district and each participating school district or charter school for satellite courses taught within the participating school.
district or charter school, or approved solely by the career technical education district for centrally located courses. Student count and average daily membership from courses that are not part of an approved program for career and technical education shall not be included in student count and average daily membership of a career technical education district.

E. The career technical education board shall appoint a superintendent as the executive officer of the career technical education district.

F. Taxes may be levied for the support of the career technical education district as prescribed in chapter 9, article 6 of this title, except that a career technical education district shall not levy a property tax pursuant to law that exceeds five cents $.05 per one hundred dollars $100 assessed valuation except for bond monies pursuant to subsection D, paragraph 1 of this section. Except for the taxes levied pursuant to section 15-994, such taxes shall be obtained from a levy of taxes on the taxable property used for secondary tax purposes.

G. The schools in the career technical education district are available to all persons who reside in the career technical education district and to pupils whose school district of residence within this state is paying tuition on behalf of the pupils to a district of attendance that is a member of the career technical education district, subject to the rules for admission prescribed by the career technical education board.

H. The career technical education board may collect tuition for adult students and the attendance of pupils who are residents of school districts that are not participating in the career technical education district pursuant to arrangements made between the governing board of the school district and the career technical education board.

I. The career technical education board may accept gifts, grants, federal monies, tuition and other allocations of monies to erect, repair — and equip buildings and for the cost of operation of operating the schools of the career technical education district.

J. One member of the career technical education board shall be selected chairman. The chairman shall be selected annually on a rotation basis from among the participating school districts. The chairman of the career technical education board shall be a voting member.

K. A career technical education board and a community college district may enter into agreements TO PROVIDE for the provision of administrative, operational and educational services and facilities.

L. Any agreement between the governing board of a career technical education district and another career technical education district, a school district, a charter school or a community college district shall be in the form of an intergovernmental agreement or other written contract. The auditor general shall modify the uniform system of financial records and budget forms in accordance with this subsection. The intergovernmental agreement or other written contract shall completely and accurately specify each of the following:

1. The financial provisions of the intergovernmental agreement or other written contract and the format for the billing of all services.

2. The accountability provisions of the intergovernmental agreement or other written contract.
3. The responsibilities of each career technical education district, each school district, each charter school and each community college district that is a party to the intergovernmental agreement or other written contract.

4. The type of instruction that will be provided under the intergovernmental agreement or other written contract, including individualized education programs pursuant to section 15-763.

5. The quality of the instruction that will be provided under the intergovernmental agreement or other written contract.

6. The transportation services that will be provided under the intergovernmental agreement or other written contract and the manner in which transportation costs will be paid.

7. The amount that the career technical education district will contribute to a course and the amount of support required by the school district, THE CHARTER SCHOOL or the community college.

8. That the services provided by the career technical education district, the school district, the charter school or the community college district be proportionally calculated in the cost of delivering the service.

9. That the payment for services shall not exceed the cost of the services provided.

10. That the career technical education district will provide the following minimum services for all member districts:
    (a) Professional development of career and technical teachers in the career technical education district who are teaching programs or courses at a satellite campus.
    (b) Ongoing evaluation and support of satellite campus programs and courses to ensure quality and compliance.

11. An itemized listing of other goods and services that are provided to the member district and that are paid for by the retention of satellite campus student funding.

M. A member school district or charter school may not submit requests for the approval TO APPROVE or addition of ADD satellite campus career technical education district programs or courses directly to the career and technical education division of the department of education, but shall submit all appropriate application documentation and materials for programs or courses to the career technical education district. On approval from the career technical education board, a career technical education district shall only submit requests for the approval TO APPROVE or addition of ADD satellite campus career technical education district programs or courses directly to the career and technical education division of the department of education, which shall determine whether the criteria prescribed in section 15-391, paragraphs 2 and 4 have been met. If the career and technical education division of the department of education determines that a course does not meet the criteria for approval as a career technical education course, the governing board of the career technical education district may appeal this decision to the state board of education acting as the state board of vocational education.

N. Notwithstanding any other law, the average daily membership for a pupil who is enrolled in a career technical education course and who does not meet the criteria specified in subsection P or Q of this section shall
be 0.25 for each course, except the sum of the average daily membership shall not exceed the limits prescribed by subsection D, P or Q of this section, as applicable.

0. If a career and technical education course or program is provided on a satellite campus, the sum of the average daily membership, as provided in section 15-901, subsection A, paragraph 1, for that pupil in the school district or charter school and career technical education district shall not exceed 1.25. The school district or charter school and the career technical education district shall determine the apportionment of the average daily membership for that pupil between the school district or charter school and the career technical education district. A pupil who attends a course or program at a satellite campus and who is not enrolled in the school district or charter school where the satellite campus is located may generate the average daily membership up to 0.25 for one hundred fifty hours of instruction received during any hour of the day, during any day of the week and at any time between July 1 and June 30 of each fiscal year pursuant to this subsection if the pupil is enrolled in a school district that is a member district in the same career technical education district.

P. The sum of the average daily membership of a pupil who is enrolled in both the school district and career technical education course or career technical education program provided at by a community college pursuant to subsection K of this section or at a centralized campus shall not exceed 1.75. The average daily membership for a pupil who is enrolled in a career technical education course or career technical education program provided by a community college shall be 0.25 for the accumulation of every three community college credits for which a student is enrolled in career technical education courses. The member school district and the career technical education district shall determine the apportionment of the average daily membership and student enrollment for that pupil between the member school district and the career technical education district, except that the amount apportioned shall not exceed 1.0 for either entity. Notwithstanding any other law, the average daily membership for a pupil in grade ten, eleven or twelve who is enrolled in a course that meets for at least one hundred fifty minutes per class period at a centralized campus shall be 0.75. To qualify for funding pursuant to this subsection, a centralized campus shall offer programs and courses to all eligible students in each member district of the career technical education district. Students in an approved career technical education program may generate an average daily membership of up to 1.75 for instruction received during any hour of the day, during any day of the week and at any time between July 1 and June 30 of each fiscal year. Average daily membership shall not be calculated on the one hundredth day of instruction for the purposes of this section. Average daily membership shall be calculated by dividing the instructional hours of enrollment by six hundred hours, except that:

1. At least one hundred fifty hours and less than three hundred hours equals 0.25 average daily membership.
2. At least three hundred hours and less than four hundred fifty hours equals 0.5 average daily membership.
3. At least four hundred fifty hours and less than six hundred hours equals 0.75 average daily membership.

4. At least six hundred hours equals 1.0 average daily membership.

Q. The average daily membership for a pupil in grade ten, eleven or twelve who is enrolled in a course that meets for at least one hundred fifty minutes per class period at a leased centralized campus shall not exceed 0.75. Students in an approved career technical education program provided by a leased centralized campus may generate an average daily membership for instruction received during any hour of the day, during any day of the week and at any time between July 1 and June 30 of each fiscal year. Average daily membership shall be calculated by dividing the instructional hours of enrollment by six hundred hours, except that:

1. At least one hundred fifty hours and less than three hundred hours equals 0.25 average daily membership.

2. At least three hundred hours and less than four hundred fifty hours equals 0.5 average daily membership.

3. At least four hundred fifty hours and less than six hundred hours equals 0.75 average daily membership.

4. At least six hundred hours equals 1.0 average daily membership.

R. The sum of the average daily membership, as provided in section 15-901, subsection A, paragraph 1, of a pupil who is enrolled in both the school district and in career technical education courses provided at a leased centralized campus shall not exceed 1.75 if all of the following conditions are met:

1. The course qualifies as a career technical education course.

2. The course is offered to all eligible students in each member district of the career technical education district and enrolls students from multiple high schools.

3. The career technical education district program in which the course is included addresses a specific industry need and has been developed in cooperation with that industry, or the leased facility is a state or federal asset that would otherwise be unused or underutilized.

4. The lease is established at fair market value if the lease is executed for a facility located on the site of a member district and was approved by the joint committee on capital review, except that a lease that was executed or renewed before December 31, 2012 is not subject to approval by the joint committee on capital review.

R. S. A student who is enrolled in an accommodation school may be treated as a student of the school district in which the student physically resides for the purposes of enrollment in a career technical education district and shall be included in the calculation of average daily membership for either the career technical education district or the accommodation school, or both.

S. T. Notwithstanding any other law, the student count for a career technical education district shall be equivalent to the career technical education district's average daily membership. Students in an approved career technical education program provided by a satellite campus, centralized campus or leased centralized campus may generate an average daily membership of up to 1.75 for instruction received during any hour of the day, during any day of the week and at any time between July 1 and June
OF EACH FISCAL YEAR. AVERAGE DAILY MEMBERSHIP SHALL NOT BE CALCULATED ON
THE ONE HUNDREDTH DAY OF INSTRUCTION FOR THE PURPOSES OF THIS SECTION. THE
DEPARTMENT MAY NOT RESTRICT THE INSTRUCTIONAL TIME BY LIMITING THE
PARTICULAR DAYS OF THE WEEK OR TIME OF THE FISCAL YEAR FOR INSTRUCTION TO
OCCUR.

.getOrElse { A school district or charter school may not prohibit or
discourage students who are enrolled in that school district or charter
school from attending courses offered by a career technical education
district, including requiring students to generate a full 1.0 average daily
membership or to enroll in more courses than are needed to graduate before
enrolling in and attending programs or courses offered by a career technical
education district.


.getOrElse { The governing board of the career technical education district
may contract with any charter school that is located within the boundaries
of the career technical education district to allow that charter school to
offer career and technical education courses or programs as a satellite
campus.


.getOrElse { Beginning in 2020 and every five years thereafter, the career
and technical education division of the department of education shall review
career technical education district programs and career technical education
courses to ensure compliance, quality and eligibility. Any program or
course deemed to not meet the requirements set forth by law shall not be
funded for the current school year and shall be removed from the approved
program and course list for the purposes of funding. The career and
technical education division may establish a staggered schedule for
reviewing each career technical education district.


.getOrElse { X. For the purposes of this section:
1. "Base year" means the complete school year in which voters of a
school district elected to join a career technical education district.
2. "Centralized campus" means a facility that is owned and operated
by a career technical education district for the purpose of offering TO
OFFER career technical education district programs or career technical
education courses.
3. "Lease" means a written agreement in which the right of occupancy
TO OCCUPY or use of real property is conveyed from one person or entity to
another person or entity for a specified period of time.
4. "Leased centralized campus" means a facility that is leased and
operated by a career technical education district for the purpose of offering
TO OFFER career technical education district programs or career technical
education courses.
5. "Satellite campus" means a facility that is owned or operated by
a school district or charter school for the purpose of offering TO OFFER
career technical education district programs or career technical education
courses.}
EXPLANATION OF BLEND
SECTION 15-393.01

Laws 2021, Chapters 25, 404 and 416

Laws 2021, Ch. 25, section 2  Effective September 29, 2021
Laws 2021, Ch. 404, section 15  Effective September 29, 2021
Laws 2021, Ch. 416, section 3  Effective September 29, 2021

Explanation

Since these three enactments are compatible, the Laws 2021, Ch. 25, Ch. 404 and Ch. 416 text changes to section 15-393.01 are blended in the form shown on the following pages.
15-393.01. Career technical education districts: annual report; performance and accountability

A. The department of education shall include each career technical education district in the department's annual achievement profiles required by section 15-241, EXCEPT THAT A CAREER TECHNICAL EDUCATION DISTRICT MAY NOT BE ASSIGNED A LETTER GRADE PURSUANT TO SECTION 15-241. Subject to approval by the state board of education, the department of education shall develop specific criteria applicable to career technical education districts that may not be based solely on the criteria prescribed in the Carl D. Perkins vocational education act, as amended by the Carl D. Perkins vocational and applied technology education act amendments of 1990, as amended by the Carl D. Perkins vocational and technical education act of 1998, and shall include career technical education districts in the letter grade classification system prescribed in section 15-241. The department shall include all of the following performance indicators in the annual achievement profiles and letter grade classification and provide a copy of the information to each career technical education district governing board:

1. The graduation rate of all students enrolled in a career and technical education program or course.

2. The completion rate for each program offered by the career technical education district.

3. Performance on assessments required pursuant to section 15-391, paragraph 4, subdivision (b).

4. Postgraduation employment rates, postsecondary enrollment rates and military service rates for students who complete a career and technical education program.

B. A career technical education district is subject to the performance audits pursuant to section 41-1279.03, subsection A, paragraph 9. The auditor general shall consider the differences and applicable laws for a career technical education district when conducting a performance audit for a career technical education district.

C. On or before December 31 of each year, the career and technical education division of the department of education shall submit a career technical education district annual report to the governor, the president of the senate and the speaker of the house of representatives and shall submit a copy of this report to the secretary of state. The career and technical education division of the department of education shall submit a copy of this report to the joint legislative budget committee for review. The annual report shall include the following:

1. The average daily membership of each career technical education district, including the average daily membership of each centralized campus, satellite campus and leased centralized campus as defined in section 15-393.
2. The actual student count of each career technical education district, including the student count of each centralized campus, satellite campus and leased centralized campus as defined in section 15-393.

3. The programs and corresponding courses offered by each career technical education district, including the location of each program and course.

4. For each career technical education district based on program or course location:
   (a) The student enrollment of each program and corresponding course.
   (b) The percentage of students who enrolled in the second year of each program and corresponding course relative to the number of students in the same cohort who enrolled in the first year of each program and corresponding course.
   (c) The percentage of students who completed each program relative to the number of students in the same cohort who began the program.

5. The costs associated with each program offered by the career technical education district.

6. A listing of any programs or courses that were discontinued by review of the career and technical education division pursuant to section 15-393, subsection W.

7. A listing of any programs or courses that were continued by review of the career and technical education division pursuant to section 15-393, subsection W.

8. A listing of any programs or courses that were added by the career and technical education division.

9. For applicable school districts, the required maintenance of effort and how monies were used to supplement and not supplant base year career and technical education courses, including expenditures related to personnel, equipment and facilities.

10. FOR STUDENTS WHO MEET THE REQUIREMENTS TO RECEIVE FUNDING PURSUANT TO SECTION 15-393, SUBSECTION W. STUDENTS ENROLLED IN AN INTERNSHIP COURSE AND STUDENTS ENROLLED IN THE YEAR IMMEDIATELY FOLLOWING GRADUATION, A SEPARATE LISTING OF THE FOLLOWING INFORMATION FOR EACH DISTRICT:
   (a) AVERAGE DAILY MEMBERSHIP.
   (b) THE ACTUAL STUDENT COUNT.
   (c) ENROLLMENT BY COURSE OR PROGRAM AND PERSISTENCE AT EACH GRADE LEVEL TOWARD COMPLETION OF THE PROGRAM.
   (d) THE PERCENTAGE OF STUDENTS WHO COMPLETED EACH PROGRAM.
   (e) THE NUMBER OF CERTIFICATIONS AND LICENSES EARNED BY STUDENTS DELINEATED BY THOSE WHO ATTENDED A SATELLITE PROGRAM AND THOSE WHO ATTENDED A CENTRALIZED CAMPUS.

11. Any other data or information deemed necessary by the department of education.

D. The office of the auditor general, in consultation with the department of education, shall develop and establish uniform cost reporting guidelines, policies and procedures for career technical education district programs. Any guideline, policy or procedure shall allow for the effective comparison of cost between career technical education district programs.
EXPLANATION OF BLEND
SECTION 15-424

Laws 2021, Chapters 230 and 252

Laws 2021, Ch. 230, section 1
Effective September 29, 2021

Laws 2021, Ch. 252, section 2
Effective September 29, 2021

Explanation

Since these two enactments are compatible, the Laws 2021, Ch. 230 and Ch. 252 text changes to section 15-424 are blended in the form shown on the following pages.
15-424. **Election of governing board members: terms; reduction of membership; statement of contributions and expenditures.**

A. A regular election shall be held for each school district at the time and place, and in the manner, of general elections as provided in title 16.

B. Except as provided in subsection C of this section and sections 15-429 and 15-430, the term of office for each member shall be four years from January 1 next following the member's election.

C. At the first general election held for a newly formed district, three members shall be elected. The candidate receiving the highest number of votes shall be elected to a four-year term, and the candidates having the second and third highest number of votes shall be elected to two-year terms. A district increasing its governing board to five members shall elect at the next general election members in the following manner:

1. If one of the previous three offices is to be filled, the three candidates receiving the highest, the second highest and the third highest number of votes shall be elected to four-year terms.

2. If two of the previous three offices are to be filled, the candidates receiving the highest, the second highest and the third highest number of votes shall be elected to four-year terms. The candidate receiving the fourth highest number of votes shall be elected to a two-year term. Thereafter all such offices shall have four-year terms.

D. **A member who is serving on a governing board for a district that reduces the number of its governing board members to three pursuant to section 15-425.01 shall continue to serve as a member of the governing board until expiration of the member's current term of office. A district that reduces the number of its governing board members to three pursuant to section 15-425.01 shall reduce the number of its members as follows:**

1. **If two of the previous five offices are expiring at the first general election held after the general election in which a district reduces the number of its governing board members to three pursuant to section 15-425.01:**

   (a) At the first general election held after the general election in which a district reduces the number of its governing board members to three pursuant to section 15-425.01, the candidate receiving the highest number of votes shall be elected to a four-year term.

   (b) At the second general election held after the general election in which a district reduces the number of its governing board members to three pursuant to section 15-425.01, the candidates receiving the highest and second highest number of votes shall be elected to four-year terms.
2. IF THREE OF THE PREVIOUS FIVE OFFICES ARE EXPIRING AT THE FIRST
GENERAL ELECTION HELD AFTER THE GENERAL ELECTION IN WHICH A DISTRICT REDUCES
THE NUMBER OF ITS GOVERNING BOARD MEMBERS TO THREE PURSUANT TO SECTION
15-425.01, THE CANDIDATE RECEIVING THE HIGHEST NUMBER OF VOTES SHALL BE
ELECTED TO A FOUR-YEAR TERM AT THE ELECTION.

E. If only one person files a nominating petition or nomination paper for a write-in candidate for an election to fill a district office, the board of supervisors[.]

F. The board of supervisors[.] may cancel the election for the position and appoint the person who filed the nominating petition or nomination paper to fill the position. If no person files a nominating petition or nomination paper for an election to fill a district office, the board of supervisors[.]

G. Position of the names of candidates for each office shall be rotated so that each candidate occupies each position on the ballot an equal number of times, insofar as is possible, for each ballot style. For candidates seeking election to fill a vacancy on the governing board, the ballot shall be designated as provided in section 16-502.

H. This section does not require that a school election at which no member is to be elected be held on a general election day.

I. All candidates for the office of school district governing board member shall file with the county school superintendent a statement of contributions and expenditures as provided in section 16-926.
EXPLANATION OF BLEND
SECTION 15-481

Laws 2021, Chapters 184 and 404

Laws 2021, Ch. 184, section 1  Effective September 29, 2021
Laws 2021, Ch. 404, section 16  Effective September 29, 2021

Explanation
Since these two enactments are compatible, the Laws 2021, Ch. 184 and Ch. 404 text changes to section 15-481 are blended in the form shown on the following pages.

A. If a proposed budget of a school district exceeds the aggregate budget limit for the budget year, at least ninety days before the proposed election the governing board shall order an override election to be held on the first Tuesday following the first Monday in November as prescribed by section 16-204, subsection F for the purpose of presenting the proposed budget to the qualified electors of the school district who by a majority of those voting either shall affirm or reject the budget. At the same time as the order of the election, the governing board shall publicly declare the deadline for submitting arguments, as set by the county school superintendent pursuant to subsection B, paragraph 9 of this section, to be submitted in the informational pamphlet and shall immediately post the deadline in a prominent location on the district's website. In addition, the governing board shall prepare an alternate budget that does not include an increase in the budget of more than the amount permitted ALLOWED as provided in section 15-905. If the qualified electors approve the proposed budget, the governing board of the school district shall follow the procedures prescribed in section 15-905 for adopting a budget that includes the authorized increase. If the qualified electors disapprove the proposed budget, the governing board shall follow the procedures prescribed in section 15-905 for adopting a budget that does not include the proposed increase or the portion of the proposed increase that exceeds the amount authorized by a previously approved budget increase as prescribed in subsection P of this section.

B. The county school superintendent shall prepare an informational pamphlet on the proposed increase in the budget and a sample ballot and, at least forty days prior to BEFORE the election, shall transmit the informational pamphlet and the sample ballot to the governing board of the school district. The governing board, on receipt of the informational pamphlet and the ballot, shall mail or distribute the informational pamphlet and the ballot to the households in which qualified electors reside within the school district at least thirty-five days prior to BEFORE the election. Any distribution of material concerning the proposed increase in the budget shall not be conducted by children enrolled in the school district. The informational pamphlet shall contain the following information:

1. The date of the election.
2. The voter's polling place and the times it is open.
3. The proposed total increase in the budget that exceeds the amount permitted ALLOWED pursuant to section 15-905.
4. The total amount of the current year's budget, the total amount of the proposed budget and the total amount of the alternate budget.
5. If the override is for a period of more than one year, a statement indicating the number of years the proposed increase in the budget would be
in effect and the percentage of the school district's revenue control limit that the district is requesting for the future years.

6. The proposed total amount of revenues that will fund the increase in the budget and the amount that will be obtained from a levy of taxes on the taxable property within the school district for the first year for which the budget increase was adopted.

7. The proposed amount of revenues that will fund the increase in the budget and that will be obtained from other than a levy of taxes on the taxable property within the school district for the first year for which the budget increase was adopted.

8. The dollar amount and the purpose for which the proposed increase in the budget is to be expended for the first year for which the budget increase was adopted. The purpose statement shall only present factual information in a neutral manner. Advocacy for the expenditures is strictly limited to the arguments submitted pursuant to paragraph 9 of this subsection.

9. At least two arguments, if submitted, but not more than ten arguments for and two arguments, if submitted, but not more than ten arguments against the proposed increase in the budget. The arguments shall be in a form prescribed by the county school superintendent, and each argument shall not exceed two hundred words. Arguments for the proposed increase in the budget shall be provided in writing and signed by the governing board. The ballot arguments for the proposed increase in the budget shall be signed as the governing board of the school district without listing any member's individual name for the arguments for the proposed increase. If submitted, additional arguments in favor of the proposed increase in the budget shall be provided in writing with a signed, sworn statement by those in favor. Arguments against the proposed increase in the budget shall be provided in writing with a signed, sworn statement by those in opposition. If the argument is submitted by an organization, it shall contain the sworn statement of two executive officers of the organization. If the argument is submitted by a political committee, it shall contain the sworn statement of the committee's chairperson or treasurer. If the argument is submitted by an individual and not on behalf of an organization, a political committee, or any other organization, the person shall submit the argument with a sworn, notarized statement. The names of persons and entities submitting written arguments shall be included in the informational pamphlet. Persons signing the argument shall identify themselves by giving their residence address and telephone number, which may not appear in the informational pamphlet, except that the person's city or town and state of residence shall appear in the pamphlet. Any argument that is submitted and that does not comply with this paragraph may not be included in the pamphlet. The county school superintendent shall review all factual statements contained in the written arguments and correct any inaccurate statements of fact. The superintendent shall not review and correct any portion of the written arguments that are identified as statements of the author's opinion. The county school superintendent shall make the written arguments available to the public as provided in title 39, chapter 1, article 2. A deadline for submitting arguments to be included in the informational pamphlet shall be set by the county school superintendent.
10. A statement that the alternate budget shall be adopted by the governing board if the proposed budget is not adopted by the qualified electors of the school district.
11. The current limited property value and the net assessed valuation provided by the department of revenue, the first year tax rate for the proposed override and the estimated amount of the secondary property taxes if the proposed budget is adopted for each of the following:
(a) An owner-occupied residence whose assessed valuation is the average assessed valuation of property classified as class three, as prescribed by section 42-12003 for the current year in the school district.
(b) An owner-occupied residence whose assessed valuation is one-half of the assessed valuation of the residence in subdivision (a) of this paragraph.
(c) An owner-occupied residence whose assessed valuation is twice the assessed valuation of the residence in subdivision (a) of this paragraph.
(d) A business whose assessed valuation is the average of the assessed valuation of property classified as class one, as prescribed by section 42-12001, paragraphs 12 and 13 for the current year in the school district.
12. If the election is conducted pursuant to subsection L or M of this section, the following information:
(a) An executive summary of the school district's most recent capital improvement plan submitted to the school facilities OVERSIGHT board.
(b) A complete list of each proposed capital improvement that will be funded with the budget increase and a description of the proposed cost of each improvement, including a separate aggregation of capital improvements for administrative purposes as defined by the school facilities OVERSIGHT board.
(c) The tax rate associated with each of the proposed capital improvements and the estimated cost of each capital improvement for the owner of a single family home that is valued at eighty thousand dollars $80,000.
C. For the purpose of this section, the school district may use its staff, equipment, materials, buildings or other resources only to distribute the informational pamphlet at the school district office or at public hearings and to produce such information as required in subsection B of this section, provided that [nothing in this subsection shall DOES NOT] preclude school districts from holding or participating in any public hearings at which testimony is given by at least one person for the proposed increase and one person against the proposed increase. Any written information provided by the district pertaining to the override election shall include financial information showing the estimated first year tax rate for the proposed budget override amount.
D. If any amount of the proposed increase will be funded by a levy of taxes in the district, the election prescribed in subsection A of this section shall be held on the first Tuesday following the first Monday in November as prescribed by section 16-204, subsection F. If the proposed increase will be fully funded by revenues from other than a levy of taxes, the elections prescribed in subsection A of this section shall be held on any date prescribed by section 16-204. The elections shall be conducted as nearly as practicable in the manner prescribed in article 1 of this chapter,
sections 15-422 through 15-424 and section 15-426, relating to special elections, except that:

1. The notices required pursuant to section 15-403 shall be posted not less than twenty-five days before the election.

2. Ballots shall be counted pursuant to title 16, chapter 4, article 10.

E. If the election is to exceed the revenue control limit and if the proposed increase will be fully funded by a levy of taxes on the taxable property within the school district, the ballot shall contain the words "budget increase, yes" and "budget increase, no", and the voter shall signify the voter's desired choice. The ballot shall also contain the amount of the proposed increase of the proposed budget over the alternate budget, a statement that the amount of the proposed increase will be based on a percentage of the school district's revenue control limit in future years, if applicable, as provided in subsection P of this section and the following statement:

Any budget increase authorized by this election shall be entirely funded by a levy of taxes on the taxable property within this school district for the year for which adopted and for ___ subsequent years, shall not be realized from monies furnished by the state and shall not be subject to the limitation on taxes specified in article IX, section 18, Constitution of Arizona. Based on the current net assessed valuation used for secondary property tax purposes, to fund the proposed increase in the school district's budget would require an estimated tax rate of $_________ dollar per one-hundred dollars $100 of net assessed valuation used for secondary property tax purposes and is in addition to the school district's tax rate that will be levied to fund the school district's revenue control limit allowed by law.

F. If the election is to exceed the revenue control limit and if the proposed increase will be fully funded by revenues from other than a levy of taxes on the taxable property within the school district, the ballot shall contain the words "budget increase, yes" and "budget increase, no", and the voter shall signify the voter's desired choice. The ballot shall also contain:

1. The amount of the proposed increase of the proposed budget over the alternate budget.

2. A statement that the amount of the proposed increase will be based on a percentage of the school district's revenue control limit in future years, if applicable, as provided in subsection P of this section.

3. The following statement:

Any budget increase authorized by this election shall be entirely funded by this school district with revenues from other than a levy of taxes on the taxable property within the school district for the year for which adopted and for ___ subsequent years and shall not be realized from monies furnished by the state.

G. Except as provided in subsection H of this section, the maximum budget increase that may be requested and authorized as provided in
subsection E or F of this section or the combination of subsections E and F of this section is fifteen percent of the revenue control limit as provided in section 15-947, subsection A for the budget year. If a school district requests an override pursuant to section 15-482 or to continue with a budget override pursuant to section 15-482 for pupils in kindergarten programs and grades one through three that was authorized before December 31, 2008, the maximum budget increase that may be requested and authorized as provided in subsection E or F of this section or the combination of subsections E and F of this section is ten percent of the revenue control limit as provided in section 15-947, subsection A for the budget year.

H. Special budget override provisions for school districts with a student count of less than one hundred fifty-four in kindergarten programs and grades one through eight or with a student count of less than one hundred seventy-six in grades nine through twelve are as follows:

1. The maximum budget increase that may be requested and authorized as provided in subsections E and F of this section is the greater of the amount prescribed in subsection G of this section or a limit computed as follows:

   (a) For common or unified districts with a student count of less than one hundred fifty-four in kindergarten programs and grades one through eight, the limit computed as prescribed in item (i) or (ii) of this subdivision, whichever is appropriate:

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\[(500 - \text{Student Count})\]

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<th>Small School Student Count</th>
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(c) If both subdivisions (a) and (b) of this paragraph apply to a unified school district, its limit for the purposes of this paragraph is the combination of its elementary limit and its secondary limit.

(d) If only subdivision (a) or (b) of this paragraph applies to a unified school district, the district's limit for the purposes of this paragraph is the sum of the limit computed as provided in subdivision (a) or (b) of this paragraph plus ten percent of the revenue control limit attributable to those grade levels that do not meet the eligibility requirements of this subsection. If a school district budgets monies outside the revenue control limit pursuant to section 15-949, subsection E, the district's limit for the purposes of this paragraph is only the ten percent of the revenue control limit attributable to those grade levels that are not included under section 15-949, subsection E. For the purposes of this subdivision, the revenue control limit is separated into elementary and secondary components based on the weighted student count as provided in section 15-971, subsection B, paragraph 2, subdivision (a).

2. If a school district utilizes this subsection to request an override of more than one year, the ballot shall include an estimate of the amount of the proposed increase in the future years in place of the statement that the amount of the proposed increase will be based on a percentage of the school district's revenue control limit in future years, as prescribed in subsections E and F of this section.

3. Notwithstanding subsection P of this section, the maximum period of an override authorized pursuant to this subsection is five years.

4. Subsection P, paragraphs 1 and 2 of this section do not apply to overrides authorized pursuant to this subsection.

I. If the election is to exceed the revenue control limit as provided in section 15-482 and if the proposed increase will be fully funded by a levy of taxes on the taxable property within the school district, the ballot shall contain the words "budget increase, yes" and "budget increase, no", and the voter shall signify the voter's desired choice. The ballot shall also contain the amount of the proposed increase of the budget over the alternate budget, a statement that the amount of the proposed increase will be based on a percentage of the school district's revenue control limit in future years,
if applicable, as provided in subsection Q of this section, and the following statement:

Any budget increase authorized by this election shall be entirely funded by a levy of taxes on the taxable property within this school district for the year for which adopted and for subsequent years, shall not be realized from monies furnished by the state and shall not be subject to the limitation on taxes specified in article IX, section 18, Constitution of Arizona. Based on the current net assessed valuation used for secondary property tax purposes, to fund the proposed increase in the school district's budget that will be funded by a levy of taxes on the taxable property within this school district would require an estimated tax rate of $ per one hundred dollars $100 of net assessed valuation used for secondary property tax purposes and is in addition to the school district's tax rate that will be levied to fund the school district's revenue control limit allowed by law.

J. If the election is to exceed the revenue control limit as provided in section 15-482 and if the proposed increase will be fully funded by revenues other than a levy of taxes on the taxable property within the school district, the ballot shall contain the words "budget increase, yes" and "budget increase, no" and the voter shall signify the voter's desired choice. The ballot shall also contain the amount of the proposed increase of the proposed budget over the alternate budget, a statement that the amount of the proposed increase will be based on a percentage of the school district's revenue control limit in future years, if applicable, as provided in subsection Q of this section and the following statement:

Any budget increase authorized by this election shall be entirely funded by this school district with revenues from other than a levy of taxes on the taxable property within the school district for the year for which adopted and for subsequent years and shall not be realized from monies furnished by the state.

K. The maximum budget increase that may be requested and authorized as provided in subsection I or J of this section, or a combination of both of these subsections, is five percent of the revenue control limit as provided in section 15-947, subsection A for the budget year. For a common school district not within a high school district or a common school district within a high school district that offers instruction in high school subjects as provided in section 15-447, five percent of the revenue control limit means five percent of the revenue control limit attributable to the weighted student count in preschool programs for children with disabilities, kindergarten programs and grades one through eight as provided in section 15-971, subsection B. For a unified school district, five percent of the revenue control limit means five percent of the revenue control limit attributable to the weighted student count in preschool programs for children with disabilities, kindergarten programs and grades one through twelve. For a union high school district, five percent of the revenue control limit means
five percent of the revenue control limit attributable to the weighted student count in grades nine through twelve.

L. If the election is to exceed district additional assistance and if the proposed increase will be fully funded by a levy of taxes on the taxable property within the school district, the ballot shall contain the words "budget increase, yes" and "budget increase, no", and the voter shall signify the voter's desired choice. An election held pursuant to this subsection shall be held on the first Tuesday after the first Monday of November. The ballot shall also contain the amount of the proposed increase of the budget over the alternate budget and the following statement:

Any budget increase authorized by this election shall be entirely funded by a levy of taxes on the taxable property within this school district for the year in which adopted and for ______ subsequent years, shall not be realized from monies furnished by the state and shall not be subject to the limitation on taxes specified in article IX, section 18, Constitution of Arizona. Based on the current net assessed valuation used for secondary property tax purposes, to fund the proposed increase in the school district's budget would require an estimated tax rate of $_______ dollar per one-hundred dollars $100 of net assessed valuation used for secondary property tax purposes and is in addition to the school district's tax rate that will be levied to fund the school district's district additional assistance allowed by law.

M. If the election is to exceed district additional assistance and if the proposed increase will be fully funded by revenues from other than a levy of taxes on the taxable property within the school district, the ballot shall contain the words "budget increase, yes" and "budget increase, no", and the voter shall signify the voter's desired choice. An election held pursuant to this subsection shall be held on the first Tuesday after the first Monday of November. The ballot shall also contain the amount of the proposed increase of the budget over the alternate budget and the following statement:

Any budget increase authorized by this election shall be entirely funded by this school district with revenues from other than a levy of taxes on the taxable property within the school district for the year in which adopted and for ______ subsequent years and shall not be realized from monies furnished by the state.

N. If the election is to exceed a combination of the revenue control limit as provided in subsection E or F of this section, the revenue control limit as provided in subsection I or J of this section or district additional assistance as provided in subsection L or M of this section, the ballot shall be prepared so that the voters may vote on each proposed increase separately and shall contain statements required in the same manner as if each proposed increase were submitted separately.

O. If the election provides for a levy of taxes on the taxable property within the school district, at least thirty days prior to BEFORE the election, the department of revenue shall provide the school district governing board and the county school superintendent with the current net assessed valuation of the school district. The governing board and the
county school superintendent shall use the current net assessed valuation of the school district to translate the amount of the proposed dollar increase in the budget of the school district over that allowed by law into a tax rate figure.

P. If the voters in a school district vote to adopt a budget in excess of the revenue control limit as provided in subsection E or F of this section, any additional increase shall be included in the aggregate budget limit for each of the years authorized. Any additional increase shall be excluded from the determination of equalization assistance. The school district governing board, however, may levy on the net assessed valuation used for secondary property tax purposes of the property in the school district the additional increase if adopted under subsection E of this section for the period of one year, two years or five through seven years as authorized. If an additional increase is approved as provided in subsection F of this section, the school district governing board may only use revenues derived from the school district's prior year's maintenance and operation fund ending cash balance to fund the additional increase. If a budget increase was previously authorized and will be in effect for the budget year or budget year and subsequent years, as provided in subsection E or F of this section, the governing board may request a new budget increase as provided in the same subsection under which the prior budget increase was adopted, which shall not exceed the maximum amount permitted ALLOWED under subsection G of this section. If the voters in the school district authorize the new budget increase amount, the existing budget increase no longer is in effect. If the voters in the school district do not authorize the budget increase amount, the existing budget increase remains in effect for the time period for which it was authorized. The maximum additional increase authorized as provided in subsection E or F of this section and the additional increase that is included in the aggregate budget limit is based on a percentage of a school district's revenue control limit in future years, if the budget increase is authorized for more than one year. If the additional increase:

1. Is for two years, the proposed increase in the second year is equal to the initial proposed percentage increase.

2. Is for five years or more, the proposed increase is equal to the initial proposed percentage increase in the following years of the proposed increase, except that in the next to last year it is two-thirds of the initial proposed percentage increase and it is one-third of the initial proposed percentage increase in the last year of the proposed increase.

Q. If the voters in a school district vote to adopt a budget in excess of the revenue control limit as provided in subsection I or J of this section, any additional increase shall be included in the aggregate budget limit for each of the years authorized. Any additional increase shall be excluded from the determination of equalization assistance. The school district governing board, however, may levy on the net assessed valuation used for secondary property tax purposes of the property in the school district the additional increase if adopted under subsection I of this section for the period of one year, two years or five through seven years as authorized. If an additional increase is approved as provided in subsection J of this section, the increase may only be budgeted and expended if sufficient monies are available in the maintenance and operation fund of the
school district. If a budget increase was previously authorized and will be in effect for the budget year or budget year and subsequent years, as provided in subsection I or J of this section, the governing board may request a new budget increase as provided in the same subsection under which the prior budget increase was adopted that does not exceed the maximum amount permitted under subsection K of this section. If the voters in the school district authorize the new budget increase amount, the existing budget increase no longer is in effect. If the voters in the school district do not authorize the budget increase amount, the existing budget increase remains in effect for the time period for which it was authorized. The maximum additional increase authorized as provided in subsection I or J of this section and the additional increase that is included in the aggregate budget limit is based on a percentage of a school district’s revenue control limit in future years, if the budget increase is authorized for more than one year. If the additional increase:

1. Is for two years, the proposed increase in the second year is equal to the initial proposed percentage increase.

2. Is for five years or more, the proposed increase is equal to the initial proposed percentage increase in the following years of the proposed increase, except that in the next to last year it is two-thirds of the initial proposed percentage increase and it is one-third of the initial proposed percentage increase in the last year of the proposed increase.

R. If the voters in a school district vote to adopt a budget in excess of district additional assistance as provided in subsection L of this section, any additional increase shall be included in the aggregate budget limit for each of the years authorized. The additional increase shall be excluded from the determination of equalization assistance. The school district governing board, however, may levy on the net assessed valuation used for secondary property tax purposes of the property in the school district the additional increase for the period authorized but not to exceed ten years. For overrides approved by a vote of the qualified electors of the school district at an election held from and after October 31, 1998, the period of the additional increase prescribed in this subsection shall not exceed seven years for any capital override election.

S. If the voters in a school district vote to adopt a budget in excess of district additional assistance as provided in subsection M of this section, any additional increase shall be included in the aggregate budget limit for each of the years authorized. The additional increase shall be excluded from the determination of equalization assistance. The school district governing board may only use revenues derived from the school district's prior year's maintenance and operation fund ending cash balance and capital outlay fund ending cash balance to fund the additional increase for the period authorized but not to exceed ten years. For overrides approved by a vote of the qualified electors of the school district at an election held from and after October 31, 1998, the period of the additional increase prescribed in this subsection shall not exceed seven years for any capital override election.

T. In addition to subsections P and S of this section, from the maintenance and operation fund and capital outlay fund ending cash balances, the school district governing board shall first use any available revenues to
reduce its primary tax rate to zero and shall use any remaining revenues to
fund the additional increase authorized as provided in subsections F and M of
this section.

U. If the voters in a school district disapprove the proposed budget,
the alternate budget that, except for any budget increase authorized by a
prior election, does not include an increase in the budget in excess of the
amount provided in section 15-905 shall be adopted by the governing board as
provided in section 15-905.

V. The governing board may request that any override election be
cancelled if any change in chapter 9 of this title changes the amount of the
aggregate budget limit as provided in section 15-905. The request to cancel
the override election shall be made to the county school superintendent at
least eighty days prior to the date of the scheduled override election.

W. For any election conducted pursuant to subsection L or M of this
section:

1. The ballot shall include the following statement in addition to any
other statement required by this section:

   The capital improvements that are proposed to be funded
   through this override election are to exceed the state standards
   and are in addition to monies provided by the state.

   ________ school district is proposing to increase its
   budget by $________ to fund capital improvements over and
   above those funded by the state. Under the students first
capital funding system, ________ school district is entitled to
state monies for new construction and renovation of school
buildings in accordance with state law.

2. The ballot shall contain the words "budget increase, yes" and
"budget increase, no", and the voter shall signify the voter's desired
choice.

3. At least eighty-five days before the election, the school district
shall submit proposed ballot language to the director of the Arizona
legislative council. The director of the Arizona legislative council shall
review the proposed ballot language to determine whether the proposed ballot
language complies with this section. If the director of the Arizona
legislative council determines that the proposed ballot language does not
comply with this section, the director, within ten calendar days of the
receipt of the proposed ballot language, shall notify the
school district of the director's objections, and the school district shall
resubmit revised ballot language to the director for approval.

X. If the voters approve the budget increase pursuant to subsection L
or M of this section, the school district shall not use the override proceeds
for any purposes other than the proposed capital improvements listed in the
informational pamphlet, except that up to ten percent of the override
proceeds may be used for general capital expenses, including cost overruns of
proposed capital improvements.
Y. Each school district that currently increases its budget pursuant to this section shall hold a public meeting each year between September 1 and October 31 at which an update of the programs or capital improvements financed through the override is discussed and at which the public is permitted an opportunity to comment and:

1. If the increase is pursuant to subsection L or M of this section, at a minimum, the update shall include the progress of capital improvements financed through the override, a comparison of the current status and the original projections on the construction of capital improvements, the costs of capital improvements and the costs of capital improvements in progress or completed since the prior meeting and the future capital plans of the school district. The school district shall include in the public meeting a discussion of the school district's use of state capital aid and voter-approved bonding in funding capital improvements, if any.

2. If the increase is pursuant to subsection E, F, I or J of this section, the update shall include at a minimum the amount expended in the previous fiscal year and the amount included in the current budget for each of the purposes listed in the informational pamphlet prescribed by subsection B of this section.

Z. If a budget in excess of district additional assistance was previously adopted by the voters in a school district and will be in effect for the budget year or budget year and subsequent years, as provided in subsection L or M of this section, the governing board may request an additional budget in excess of district additional assistance. If the voters in a school district authorize the additional budget in excess of district additional assistance, the existing district additional assistance budget increase remains in effect.

AA. Notwithstanding any other law, the maximum budget increase that may be authorized pursuant to subsection L or M of this section is ten percent of the school district's revenue control limit.

BB. If the election is to continue to exceed the revenue control limit and if the proposed override will be fully funded by a continuation of a levy of taxes on the taxable property in the school district, the ballot shall contain the words "budget override continuation, yes" and "budget override continuation, no", and the voter shall signify the voter's desired choice. The ballot shall also contain the amount of the proposed continuation of the budget increase of the proposed budget over the alternate budget, a statement that the amount of the proposed increase will be based on a percentage of the school district's revenue control limit in future years, if applicable, as provided in subsection P of this section and the following statement:

Any budget increase continuation authorized by this election shall be entirely funded by a levy of taxes on the taxable property in this school district for the year for which adopted and for subsequent years, shall not be realized from monies furnished by the state and shall not be subject to the limitation on taxes specified in article IX, section 18, Constitution of Arizona. Based on the current net assessed valuation used for secondary property tax purposes, to fund the proposed continuation of the increase in the school district's budget would require an estimated continuation of a tax rate of
$______ dollar per one hundred dollars $100 of assessed valuation used for secondary property tax purposes and is in addition to the school district’s tax rate that will be levied to fund the school district's revenue control limit allowed by law.

CC. If the election is to continue to exceed the revenue control limit as provided in section 15-482 and if the proposed override will be fully funded by a continuation of a levy of taxes on the taxable property in the school district, the ballot shall contain the words "budget override continuation, yes" and "budget override continuation, no", and the voter shall signify the voter's desired choice. The ballot shall also contain the amount of the proposed continuation of the budget increase of the proposed budget over the alternate budget, a statement that the amount of the proposed increase will be based on a percentage of the school district's revenue control limit in future years, if applicable, as provided in subsection P of this section and the following statement:

Any budget increase continuation authorized by this election shall be entirely funded by a levy of taxes on the taxable property in this school district for the year for which adopted and for _____ subsequent years, shall not be realized from monies furnished by the state and shall not be subject to the limitation on taxes specified in article IX, section 18, Constitution of Arizona. Based on the current net assessed valuation used for secondary property tax purposes, to fund the proposed continuation of the increase in the school district’s budget would require an estimated continuation of a tax rate of $______ dollar per one hundred dollars $100 of net assessed valuation used for secondary property tax purposes and is in addition to the school district's tax rate that will be levied to fund the school district's revenue control limit allowed by law.
EXPLANATION OF BLEND
SECTION 15-701.01

Laws 2021, Chapters 289 and 414

Laws 2021, Ch. 289, section 2  Effective September 29, 2021
Laws 2021, Ch. 414, section 1  Effective September 29, 2021

Explanation

Since these two enactments are compatible, the Laws 2021, Ch. 289 and Ch. 414 text changes to section 15-701.01 are blended in the form shown on the following pages.
15-701.01. **High schools: graduation; requirements; community college or university courses; transfer from other schools; academic credit**

A. The state board of education shall:

1. Prescribe a minimum course of study, as defined in section 15-101 and incorporating THAT INCORPORATES the academic standards adopted by the state board, for the graduation of pupils from high school.

2. Prescribe competency requirements for the graduation of pupils from high school incorporating the academic standards in at least the areas of reading, writing, mathematics, science and social studies. The academic standards prescribed by the state board in social studies shall include personal finance and American civics education. The state board may consider establishing a required separate personal finance course for the purpose of the graduation of pupils from high school. The state board shall require at least one-half of a course credit in economics, which shall include financial literacy and personal financial management. The competency requirements for social studies shall include a requirement that, in order to graduate from high school or obtain a high school equivalency diploma, a pupil must correctly answer at least sixty of the one hundred questions listed on a test that is identical to the civics portion of the naturalization test used by the United States citizenship and immigration services. A district school or charter school shall document on the pupil's transcript that the pupil has passed a test that is identical to the civics portion of the naturalization test used by the United States citizenship and immigration services as required by this section.

3. Develop and adopt competency tests pursuant to section 15-741. English language learners who are subject to article 3.1 of this chapter are subject to the assessments prescribed in section 15-741.

B. The governing board of a school district shall:

1. Prescribe curricula that include the academic standards in the required subject areas pursuant to subsection A, paragraph 1 of this section.

2. Prescribe criteria for the graduation of pupils from the high schools in the school district. These criteria shall include accomplishment of the academic standards in at least reading, writing, mathematics, science and social studies, as determined by district assessment. Other criteria may include additional measures of academic achievement and attendance. Pursuant to the prescribed graduation requirements adopted by the state board of education, the governing board may approve a rigorous computer science course that would fulfill a mathematics course required for graduation from high school. The governing board may approve a rigorous computer science course only if the rigorous computer science course includes significant mathematics content and the governing board determines the high school where the rigorous computer science course is offered has sufficient capacity, infrastructure and qualified staff, including competent teachers of computer science. The school district governing board or charter school governing body may determine the method and manner in which to administer a test that is identical to the civics portion of the naturalization test used by the United States citizenship and immigration
services. A pupil who does not obtain a passing score on the test that is identical to the civics portion of the naturalization test may retake the test until the pupil obtains a passing score.

C. The governing board may prescribe the course of study and competency requirements for the graduation of pupils from high school that are in addition to or higher than the course of study and competency requirements that the state board prescribes.

D. The governing board may prescribe competency requirements for the passage of pupils in courses that are required for graduation from high school.

E. A teacher shall determine whether to pass or fail a pupil in a course in high school on the basis of the competency requirements, if any have been prescribed. The governing board, if it reviews the decision of a teacher to pass or fail a pupil in a course in high school as provided in section 15-342, paragraph 11, shall base its decision on the competency requirements, if any have been prescribed.

F. Graduation requirements established by the governing board may be met by a pupil who passes courses in the required or elective subjects at a community college or university, if the course is at a higher level than the course taught in the high school attended by the pupil or, if the course is not taught in the high school, the level of the course is equal to or higher than the level of a high school course. The governing board shall determine whether the subject matter of the community college or university course is appropriate to the specific requirement the pupil intends it to fulfill and whether the level of the community college or university course is less than, equal to or higher than a high school course, and the governing board shall award AT LEAST one-half of a CARNEGIE UNIT AND UP TO AND INCLUDING ONE Carnegie unit for each three semester hours of credit that the pupil earns in an appropriate community college or university course. If a pupil is not satisfied with the decision of the governing board regarding the amount of credit granted or the subject for which credit is granted, the pupil may request that the state board of education review the decision of the governing board, and the state board shall make the final determination of the amount of credit to be given the pupil and for which subjects. The governing board shall not limit the number of credits that is required for high school graduation and that may be met by taking community college or university courses. For the purposes of this subsection:

1. "Community college" means an educational institution that is operated by a community college district as defined in section 15-1401 or a postsecondary educational institution under the jurisdiction of an Indian tribe recognized by the United States department of the interior.

2. "University" means a university under the jurisdiction of the Arizona board of regents.

G. A pupil who transfers from a private school shall be provided with a list that indicates those credits that have been accepted and denied by the school district. A pupil may request to take an examination in each particular course in which credit has been denied. The school district shall accept the credit for each particular course in which the pupil takes an examination and receives a passing score on a test designed and evaluated
by a teacher in the school district who teaches the subject matter on which the examination is based. In addition to the above requirements, the governing board of a school district may prescribe requirements for the acceptance of the credits of pupils who transfer from a private school.

H. If a pupil who was previously enrolled in a charter school or school district enrolls in a school district in this state, the school district shall accept credits earned by the pupil in courses or instructional programs at the charter school or school district. The governing board of a school district may adopt a policy concerning the application of transfer credits for the purpose of determining whether a credit earned by a pupil who was previously enrolled in a school district or charter school will be assigned as an elective or core credit. A SCHOOL DISTRICT OR CHARTER SCHOOL MAY NOTE THE LEARNING OUTCOMES THAT A STUDENT MASTERED AS PRESCRIBED IN THE RULES ADOPTED PURSUANT TO SECTION 15-203, SUBSECTION A, PARAGRAPH 38 TO PROVIDE A RECORD OF THE DEMONSTRATED COMPETENCIES AND AWARD PARTIAL CREDIT.

I. A pupil who transfers credit from a charter school, a school district or Arizona online instruction shall be provided with a list that indicates which credits have been accepted as elective credits and which credits have been accepted as core credits by the school district or charter school. Within ten school days after receiving the list, the pupil may request to take an examination in each particular course in which core credit has been denied. The school district or charter school shall accept the credit as a core credit for each particular course in which the pupil takes an examination and receives a passing score on a test that is aligned to the competency requirements adopted pursuant to this section and that is designed and evaluated by a teacher in the school district or charter school who teaches the subject matter on which the examination is based. If a pupil is enrolled in a school district or charter school and that pupil also participates in Arizona online instruction between May 1 and July 31, the school district or charter school shall not require proof of payment as a condition of the school district or charter school accepting credits earned from the online course provider.

J. The state board of education shall adopt rules to allow high school pupils who can demonstrate competency in a particular academic course or subject to obtain academic credit for the course or subject without enrolling in the course or subject.

K. Pupils who earn a Grand Canyon diploma pursuant to article 6 of this chapter are exempt from the graduation requirements prescribed in this section. Pupils who earn a Grand Canyon diploma are entitled to all the rights and privileges of persons who graduate with a high school diploma issued pursuant to this section, including access to postsecondary scholarships and other forms of student financial aid and access to all forms of postsecondary education. Notwithstanding any other law, a pupil who is eligible for a Grand Canyon diploma may elect to remain in high school through grade twelve and shall not be prevented from enrolling at a high school after the pupil becomes eligible for a Grand Canyon diploma. A pupil who is eligible for a Grand Canyon diploma and who elects not to pursue one of the options prescribed in section 15-792.03 may only be readmitted to that high school or another high school in this state pursuant to policies adopted by the school district of readmission.
EXPLANATION OF BLEND
SECTION 15-843

Laws 2021, Chapters 119 and 373

Laws 2021, Ch. 119, section 5  Effective September 29, 2021
Laws 2021, Ch. 373, section 3  Effective September 29, 2021

Explanation

Since these two enactments are compatible, the Laws 2021, Ch. 119 and Ch. 373 text changes to section 15-843 are blended in the form shown on the following pages.
15-843. Pupil disciplinary proceedings: definition
A. An action concerning discipline, suspension or expulsion of a pupil is not subject to title 38, chapter 3, article 3.1, except that the governing board of a school district shall post regular notice and shall take minutes of any hearing held by the governing board concerning the discipline, suspension or expulsion of a pupil.
B. The governing board of any school district, in consultation with the teachers and parents of the school district, shall prescribe rules for the discipline, suspension and expulsion of pupils. The rules shall be consistent with the constitutional rights of pupils and shall include at least the following:

1. Penalties for excessive pupil absenteeism pursuant to section 15-803, including failure in a subject, failure to pass a grade, suspension or expulsion.
2. Procedures for the use of corporal punishment if allowed by the governing board.
3. Procedures for the reasonable use of physical force by certificated or classified personnel in self-defense, defense of others and defense of property.
4. Procedures for dealing with pupils who have committed or who are believed to have committed a crime.
5. A notice and hearing procedure for cases concerning the suspension of a pupil for more than ten days.
6. Procedures and conditions for readmission of a pupil who has been expelled or suspended for more than ten days.
7. Procedures for appeal to the governing board of the suspension of a pupil for more than ten days, if the decision to suspend the pupil was not made by the governing board.
8. Procedures for appeal of the recommendation of the hearing officer or officers designated by the board as provided in subsection F of this section at the time the board considers the recommendation.
9. Disciplinary policies for the confinement of pupils left alone in an enclosed space. These policies shall include the following:
   (a) A process for prior written parental notification that confinement may be used for disciplinary purposes and that is included in the pupil's enrollment packet or admission form.
   (b) A process for prior written parental consent before confinement is allowed for any pupil in the school district. The policies shall provide for an exemption to prior written parental consent if a school principal or teacher determines that the pupil poses imminent physical harm to self or others. The school principal or teacher shall
make reasonable attempts to notify the pupil's parent or guardian in writing by the end of the same day that confinement was used.

10. Procedures that require the school district to annually report to the department of education in a manner prescribed by the department the number of suspensions and expulsions that involve the possession, use or sale of an illegal substance under title 13, chapter 34 and the type of illegal substance involved in each suspension or expulsion. The department of education shall compile this information and annually post the information on its website. The information shall comply with the family educational rights and privacy act of 1974 (P.L. 93-380; 88 Stat. 57; 20 United States Code section 1232g) and SHALL not include personally identifiable information and shall show the number of suspensions and expulsions associated with each illegal substance aggregated statewide and by county.

C. Penalties adopted pursuant to subsection B, paragraph 1 of this section for excessive absenteeism shall not be applied to pupils who have completed the course requirements and whose absence from school is due solely to illness, disease or accident as certified by a person who is licensed pursuant to title 32, chapter 7, 13, [14], 15 or 17.

D. The governing board shall:
   1. Support and assist teachers in the implementation of enforcing the rules prescribed pursuant to subsection B of this section.
   2. Develop procedures allowing teachers and principals to recommend the suspension or expulsion of pupils.
   3. Develop procedures allowing teachers and principals to temporarily remove disruptive pupils from a class.
   4. Delegate to the principal the authority to remove a disruptive pupil from the classroom.
   E. If a pupil withdraws from school after receiving notice of possible action concerning discipline, expulsion or suspension, the governing board may continue with the action after the withdrawal and may record the results of such action in the pupil's permanent file.
   F. In all actions concerning the expulsion of a pupil, the governing board of a school district shall:
      1. Be notified of the intended action.
      2. Either:
         (a) Decide, in executive session, whether to hold a hearing or to designate one or more hearing officers to hold a hearing to hear the evidence, prepare a record and bring a recommendation to the board for action and whether the hearing shall be held in executive session.
         (b) Provide by policy or vote at its annual organizational meeting that all hearings concerning the expulsion of a pupil conducted pursuant to this section will be conducted before a hearing officer selected from a list of hearing officers approved by the governing board.
      3. Give written notice, at least five working days before the hearing by the governing board or the hearing officer or officers designated by the governing board, to all pupils subject to expulsion and their parents or guardians of the date, time and place of the
hearing. If the governing board decides that the hearing is to be held in executive session, the written notice shall include a statement of the right of the parents or guardians or an emancipated pupil who is subject to expulsion to object to the governing board's decision to have the hearing held in executive session. Objections shall be made in writing to the governing board.

G. If a parent or guardian or an emancipated pupil who is subject to expulsion disagrees that the hearing should be held in executive session, THE HEARING shall be held in an open meeting unless:

1. If only one pupil is subject to expulsion and disagreement exists between that pupil's parents or guardians, the governing board, after consultations with the pupil's parents or guardians or the emancipated pupil, shall decide in executive session whether the hearing will be in executive session.

2. If more than one pupil is subject to expulsion and disagreement exists between the parents or guardians of different pupils, separate hearings shall be held subject to this section.

H. This section does not prevent the pupil who is subject to expulsion or suspension, and the pupil's parents or guardians and legal counsel, from attending any executive session pertaining to the proposed disciplinary action, from having access to the minutes and testimony of the executive session or from recording the session at the parent's or guardian's expense.

I. In schools employing a superintendent or a principal, the authority to suspend a pupil from school is vested in the superintendent, principal or other school officials granted this power by the governing board of the school district.

J. In schools that do not have a superintendent or principal, a teacher may suspend a pupil from school.

K. UNLESS REQUIRED BY SECTION 15-841, SUBSECTION G. A SCHOOL DISTRICT OR CHARTER SCHOOL MAY SUSPEND OR EXPEL A PUPIL WHO IS ENROLLED IN A KINDERGARTEN PROGRAM, FIRST GRADE, SECOND GRADE, THIRD GRADE OR FOURTH GRADE ONLY IF ALL OF THE FOLLOWING APPLY:

1. THE PUPIL IS SEVEN YEARS OF AGE OR OLDER.

2. THE PUPIL ENGAGED IN CONDUCT ON SCHOOL GROUNDS THAT MEETS ONE OF THE FOLLOWING CRITERIA:

   (a) INVOLVES THE POSSESSION OF A DANGEROUS WEAPON WITHOUT AUTHORIZATION FROM THE SCHOOL.

   (b) INVOLVES THE POSSESSION, USE OR SALE OF A DANGEROUS DRUG AS DEFINED IN SECTION 13-3401 OR A NARCOTIC DRUG AS DEFINED IN SECTION 13-3401 OR A VIOLATION OF SECTION 13-3411.

   (c) IMMEDIATELY ENDANCES THE HEALTH OR SAFETY OF OTHERS.

   (d) THE PUPIL'S BEHAVIOR IS DETERMINED BY THE SCHOOL DISTRICT GOVERNING BOARD OR CHARTER SCHOOL GOVERNING BODY TO QUALIFY AS AGGRAVATING CIRCUMSTANCES AND THAT ALL OF THE FOLLOWING APPLY:

      (i) THE PUPIL IS ENGAGED IN PERSISTENT BEHAVIOR THAT HAS BEEN DOCUMENTED BY THE SCHOOL AND THAT PREVENTS OTHER PUPILS FROM LEARNING OR PREVENTS THE TEACHER FROM MAINTAINING CONTROL OF THE CLASSROOM ENVIRONMENT.
(ii) The pupil's ongoing behavior is unresponsive to targeted interventions as documented through an established intervention process that includes consultation with a school counselor, school psychologist or other mental health professional or social worker if available within the school district or charter school or through a state-sponsored program.

(iii) The pupil's parent or guardian was notified and consulted about the ongoing behavior.

(iv) Before a long-term suspension or expulsion, the school provides the pupil with a disability screening and the screening finds that the behavioral issues were not the result of a disability.

3. Failing to remove the pupil from the school building would create a safety threat that cannot otherwise reasonably be addressed or qualifies as aggravating circumstances as specified in paragraph 2 of this subsection.

4. Before suspending or expelling the pupil, the school district or charter school considers and, if feasible while maintaining the health and safety of others, in consultation with the pupil's parent or guardian to the extent possible, employs alternative behavioral and disciplinary interventions that are available to the school district or charter school, that are appropriate to the circumstances and that are considerate of health and safety. The school district or charter school shall document the alternative behavioral and disciplinary interventions it considers and employs.

5. The school district or charter school, by policy, provides for both:

(a) A readmission procedure for pupils who are in kindergarten programs, first grade, second grade, third grade and fourth grade and who have served at least five school days of a suspension from the school that exceeds ten school days to be considered for readmission on appeal of the pupil's parent or guardian.

(b) A readmission procedure for pupils who are in kindergarten programs, first grade, second grade, third grade and fourth grade and who are expelled from or subject to alternative reassignment at the school to be considered for readmission on appeal of the pupil's parent or guardian at least twenty school days after the effective date of the expulsion or alternative reassignment.

L. In all cases of suspension, it shall be for good cause and shall be reported within five days to the governing board by the superintendent or the person imposing the suspension.

M. Rules pertaining to the discipline, suspension and expulsion of pupils shall not be based on race, color, religion, sex, national origin or ancestry. If the department of education, the auditor general or the attorney general determines that a school district is substantially and deliberately not in compliance with this subsection and if the school district has failed to correct the deficiency within ninety days after receiving notice from the department of education, the superintendent of public instruction may withhold the monies the school district would otherwise be entitled to receive from the date of the
determination of noncompliance until the department of education determines that the school district is in compliance with this subsection.

N. The principal of each school shall ensure that a copy of all rules pertaining to discipline, suspension and expulsion of pupils is distributed to the parents of each pupil at the time the pupil is enrolled in school.

O. The principal of each school shall ensure that all rules pertaining to the discipline, suspension and expulsion of pupils are communicated to students at the beginning of each school year, and to transfer students at the time of their enrollment in the school.

P. School districts may refer a pupil who has been subject to discipline, suspension or expulsion pursuant to this section to a career and college readiness program for at-risk students established pursuant to section 15-707.

Q. FOR THE PURPOSES OF THIS SECTION, "AGGRAVATING CIRCUMSTANCES" MEANS THE PUPIL IS ENGAGED IN PERSISTENT BEHAVIOR THAT:
1. HAS BEEN DOCUMENTED BY THE SCHOOL.
2. PREVENTS OTHER STUDENTS FROM LEARNING OR PREVENTS THE TEACHER FROM MAINTAINING CONTROL OF THE CLASSROOM ENVIRONMENT.
3. IS UNRESPONSIVE TO TARGETED INTERVENTIONS AS DOCUMENTED THROUGH AN ESTABLISHED INTERVENTION PROCESS.
EXPLANATION OF BLEND
SECTION 15-901

Laws 2021, Chapters 299 and 404

Laws 2021, Ch. 299, section 3  Effective September 29, 2021
Laws 2021, Ch. 404, section 27  Effective September 29, 2021

Explanation

Since these two enactments are compatible, the Laws 2021, Ch. 299 and Ch. 404 text changes to section 15-901 are blended in the form shown on the following pages.
15-901. Definitions

A. In this title, unless the context otherwise requires:

1. "Average daily membership" means the total enrollment of fractional students and full-time students, minus withdrawals, of each school day through the first one hundred days or two hundred days in session, as applicable, for the current year. Withdrawals include students who are formally withdrawn from schools and students who are absent for ten consecutive school days, except for excused absences identified by the department of education. For the purposes of this section, school districts and charter schools shall report student absence data to the department of education at least once every sixty days in session. For computation purposes, the effective date of withdrawal shall be retroactive to the last day of actual attendance of the student or excused absence. A SCHOOL DISTRICT OR CHARTER SCHOOL MAY SATISFY ANY OF THE TIME AND HOURS REQUIREMENTS PRESCRIBED IN THIS SUBSECTION IN ANY MANNER PRESCRIBED IN THE SCHOOL DISTRICT'S OR CHARTER SCHOOL'S INSTRUCTIONAL TIME MODEL ADOPTED UNDER SECTION 15-901.08.

(a) "Fractional student" means:
   (i) For common schools, a preschool child who is enrolled in a program for preschool children with disabilities of at least three hundred sixty minutes each week that meets at least two hundred sixteen hours over the minimum number of days or a kindergarten student who is at least five years of age before January 1 of the school year and enrolled in a school kindergarten program that meets at least three hundred fifty-six hours for a one hundred eighty-day school year, or the instructional hours prescribed in this section. In computing the average daily membership, preschool children with disabilities and kindergarten students shall be counted as one-half of a full-time student. For common schools, a part-time student is a student enrolled for less than the total time for a full-time student as defined in this section. A part-time common school student shall be counted as one-fourth, one-half or three-fourths of a full-time student if the student is enrolled in an instructional program that is at least one-fourth, one-half or three-fourths of the time a full-time student is enrolled as defined in subdivision (b) of this paragraph. The hours in which a student is scheduled to attend a common school during the regular school day shall be included in the calculation of the average daily membership for that student.

   (ii) For high schools, a part-time student who is enrolled in less than four subjects that count toward graduation as defined by the state board of education, each of which, if taught each school day for the minimum number of days required in a school year, would meet a minimum of one hundred twenty-three hours a year, or the equivalent, in a recognized high school. The average daily membership of a part-time high school student
shall be 0.75 if the student is enrolled in an instructional program of
three subjects that meet at least five hundred forty hours for a one hundred
eighty-day school year, or the instructional hours prescribed in this
section. The average daily membership of a part-time high school student
shall be 0.5 if the student is enrolled in an instructional program of two
subjects that meet at least three hundred sixty hours for a one hundred
eighty-day school year, or the instructional hours prescribed in this
section. The average daily membership of a part-time high school student
shall be 0.25 if the student is enrolled in an instructional program of one
subject that meets at least one hundred eighty hours for a one hundred
eighty-day school year, or the instructional hours prescribed in this
section. The hours in which a student is scheduled to attend a high school
during the regular school day shall be included in the calculation of the
average daily membership for that student.

(b) "Full-time student" means:

(i) For common schools, a student who is at least six years of age
before January 1 of a school year, who has not graduated from the highest
twenty-three hours a year, or the equivalent, that meets for a total of at least
grade taught in the school district and who is regularly enrolled in a
seven hundred twenty hours for a one hundred eighty-day school year, or the
one hundred eighty-day school year, or the instructional hours prescribed in this
instructional program that meets for a total of at least eight hundred ninety hours for a
section, including the equivalent number of instructional hours for
one hundred eighty-day school year, or the instructional hours prescribed in this
schools that operate on a one hundred forty-four-day school year. The hours
section, in which a student is scheduled to attend a common school during the regular
in which a student is enrolled in an instructional program that meets for a total of at least
school day shall be included in the calculation of the average daily
seven hundred twenty hours for a one hundred eighty-day school year, or the
membership for that student.

(ii) For high schools, a student who has not graduated from the
instructional hours prescribed in this section in a recognized high school. A full-time student
highest grade taught in the school district and who is enrolled in at least
shall not be counted more than once for computation of average daily
an instructional program of four or more subjects that count toward
an instructional program of four or more subjects that count toward
graduation as defined by the state board of education, each of which, if
graduation as defined by the state board of education, each of which, if
taught each school day for the minimum number of days required in a school
taught each school day for the minimum number of days required in a school
year, would meet a minimum of one hundred twenty-three hours a year, or the
year, would meet a minimum of one hundred twenty-three hours a year, or the
equivalent, that meets for a total of at least seven hundred twenty hours
equivalent, that meets for a total of at least seven hundred twenty hours
for a one hundred eighty-day school year, or the instructional hours
for a one hundred eighty-day school year, or the instructional hours
prescribed in this section in a recognized high school. A full-time student
prescribed in this section in a recognized high school. A full-time student
shall not be counted more than once for computation of average daily
shall not be counted more than once for computation of average daily
membership. The average daily membership of a full-time high school student
membership. The average daily membership of a full-time high school student
shall be 1.0 if the student is enrolled in at least four subjects that meet
shall be 1.0 if the student is enrolled in at least four subjects that meet
at least seven hundred twenty hours for a one hundred eighty-day school
at least seven hundred twenty hours for a one hundred eighty-day school
year, or the equivalent instructional hours prescribed in this section. The
year, or the equivalent instructional hours prescribed in this section. The
hours in which a student is scheduled to attend a high school during the
hours in which a student is scheduled to attend a high school during the
regular school day shall be included in the calculation of the average daily
regular school day shall be included in the calculation of the average daily
membership for that student.
(iii) If a child who has not reached five years of age before September 1 of the current school year is admitted to kindergarten and repeats kindergarten in the following school year, a school district or charter school is not eligible to receive basic state aid on behalf of that child during the child's second year of kindergarten. If a child who has not reached five years of age before September 1 of the current school year is admitted to kindergarten but does not remain enrolled, a school district or charter school may receive a portion of basic state aid on behalf of that child in the subsequent year. A school district or charter school may charge tuition for any child who is ineligible for basic state aid pursuant to this item.

(iv) Except as otherwise provided by law, for a full-time high school student who is concurrently enrolled in two school districts or two charter schools, the average daily membership shall not exceed 1.0.

(v) Except as otherwise provided by law, for any student who is concurrently enrolled in a school district and a charter school, the average daily membership shall be apportioned between the school district and the charter school and shall not exceed 1.0. The apportionment shall be based on the percentage of total time that the student is enrolled in or in attendance at the school district and the charter school.

(vi) Except as otherwise provided by law, for any student who is concurrently enrolled, pursuant to section 15-808, in a school district and Arizona online instruction or a charter school and Arizona online instruction, the average daily membership shall be apportioned between the school district and Arizona online instruction or the charter school and Arizona online instruction and shall not exceed 1.0. The apportionment shall be based on the percentage of total time that the student is enrolled in or in attendance at the school district and Arizona online instruction or the charter school and Arizona online instruction.

(vii) For homebound or hospitalized, a student receiving at least four hours of instruction per week.

(c) "Regular school day" means the regularly scheduled class periods intended for instructional purposes. Instructional purposes may include core subjects, elective subjects, lunch, study halls, music instruction, and other classes that advance the academic instruction of pupils. Except that instructional purposes shall not include athletic practices or extracurricular clubs and activities.

2. "Budget year" means the fiscal year for which the school district is budgeting and that immediately follows the current year.

3. "Common school district" means a political subdivision of this state offering instruction to students in programs for preschool children with disabilities and kindergarten programs and either:

(a) Grades one through eight.
(b) Grades one through nine pursuant to section 15-447.01.

4. "Current year" means the fiscal year in which a school district is operating.

5. "Daily attendance" means:

(a) For common schools, days in which a pupil:
(i) Of a kindergarten program or ungraded, but not group B children with disabilities, who is at least five, but under six, years of age by September 1 attends at least three-quarters of the instructional time scheduled for the day. If the total instruction time scheduled for the year is at least three hundred fifty-six hours but is less than seven hundred twelve hours, such attendance shall be counted as one-half day of attendance. If the instructional time scheduled for the year is at least six hundred ninety-two hours, "daily attendance" means days in which a pupil attends at least one-half of the instructional time scheduled for the day. Such attendance shall be counted as one-half day of attendance. A SCHOOL DISTRICT OR CHARTER SCHOOL MAY SATISFY ANY OF THE TIME AND HOURS REQUIREMENTS PRESCRIBED IN THIS ITEM IN ANY MANNER PRESCRIBED IN THE SCHOOL DISTRICT’S OR CHARTER SCHOOL’S INSTRUCTIONAL TIME MODEL ADOPTED UNDER SECTION 15-901.08.

(ii) Of the first, second or third grades attends more than three-quarters of the instructional time scheduled for the day. A SCHOOL DISTRICT OR CHARTER SCHOOL MAY SATISFY ANY OF THE TIME AND HOURS REQUIREMENTS PRESCRIBED IN THIS ITEM IN ANY MANNER PRESCRIBED IN THE SCHOOL DISTRICT’S OR CHARTER SCHOOL’S INSTRUCTIONAL TIME MODEL ADOPTED UNDER SECTION 15-901.08.

(iii) Of the fourth, fifth or sixth grades attends more than three-quarters of the instructional time scheduled for the day, except as provided in section 15-797. A SCHOOL DISTRICT OR CHARTER SCHOOL MAY SATISFY ANY OF THE TIME AND HOURS REQUIREMENTS PRESCRIBED IN THIS ITEM IN ANY MANNER PRESCRIBED IN THE SCHOOL DISTRICT’S OR CHARTER SCHOOL’S INSTRUCTIONAL TIME MODEL ADOPTED UNDER SECTION 15-901.08.

(iv) Of the seventh or eighth grades attends more than three-quarters of the instructional time scheduled for the day, except as provided in section 15-797. A SCHOOL DISTRICT OR CHARTER SCHOOL MAY SATISFY ANY OF THE TIME AND HOURS REQUIREMENTS PRESCRIBED IN THIS ITEM IN ANY MANNER PRESCRIBED IN THE SCHOOL DISTRICT’S OR CHARTER SCHOOL’S INSTRUCTIONAL TIME MODEL ADOPTED UNDER SECTION 15-901.08.

(b) For common schools, the attendance of a pupil at three-quarters or less of the instructional time scheduled for the day shall be counted as follows, except as provided in section 15-797 and except that attendance for a fractional student shall not exceed the pupil’s fractional membership:

(i) If attendance for all pupils in the school is based on quarter days, the attendance of a pupil shall be counted as one-fourth of a day’s attendance for each one-fourth of full-time instructional time attended. A SCHOOL DISTRICT OR CHARTER SCHOOL MAY SATISFY ANY OF THE TIME AND HOURS REQUIREMENTS PRESCRIBED IN THIS ITEM IN ANY MANNER PRESCRIBED IN THE SCHOOL DISTRICT’S OR CHARTER SCHOOL’S INSTRUCTIONAL TIME MODEL ADOPTED UNDER SECTION 15-901.08.

(ii) If attendance for all pupils in the school is based on half days, the attendance of at least three-quarters of the instructional time scheduled for the day shall be counted as a full day’s attendance and attendance at a minimum of one-half but less than three-quarters of the instructional time scheduled for the day equals one-half day of attendance. A SCHOOL DISTRICT OR CHARTER SCHOOL MAY SATISFY ANY OF THE TIME AND HOURS
Requirements prescribed in this item in any manner prescribed in the school district's or charter school's instructional time model adopted under section 15-901.08.

(c) For common schools, the attendance of a preschool child with disabilities shall be counted as one-fourth day's attendance for each thirty-six minutes of attendance, except as provided in paragraph 1, subdivision (a), item (i) of this subsection for children with disabilities up to a maximum of three hundred sixty minutes each week. A school district or charter school may satisfy any of the time and hours requirements prescribed in this subdivision in any manner prescribed in the school district's or charter school's instructional time model adopted under section 15-901.08.

(d) For high schools, the attendance of a pupil shall not be counted as a full day unless the pupil is actually and physically in attendance and enrolled in and carrying four subjects, each of which, if taught each school day for the minimum number of days required in a school year, would meet a minimum of one hundred twenty-three hours a year, or the equivalent, that count toward graduation in a recognized high school except as provided in section 15-797 and subdivision (e) of this paragraph. Attendance of a pupil carrying less than the load prescribed shall be prorated. A school district or charter school may satisfy any of the time and hours requirements prescribed in this subdivision in any manner prescribed in the school district's or charter school's instructional time model adopted under section 15-901.08.

(e) For high schools, the attendance of a pupil may be counted as one-fourth of a day's attendance for each sixty minutes of instructional time in a subject that counts toward graduation, except that attendance for a pupil shall not exceed the pupil's full or fractional membership. A school district or charter school may satisfy any of the time and hours requirements prescribed in this subdivision in any manner prescribed in the school district's or charter school's instructional time model adopted under section 15-901.08.

(f) For homebound or hospitalized, a full day of attendance may be counted for each day during a week in which the student receives at least four hours of instruction. A school district or charter school may satisfy any of the time and hours requirements prescribed in this subdivision in any manner prescribed in the school district's or charter school's instructional time model adopted under section 15-901.08.

(g) For school districts that maintain school for an approved year-round school year operation, attendance shall be based on a computation, as prescribed by the superintendent of public instruction, of the one hundred eighty days' equivalency or two hundred days' equivalency, as applicable, of instructional time as approved by the superintendent of public instruction during which each pupil is enrolled. A school district or charter school may satisfy any of the time and hours requirements prescribed in this subdivision in any manner prescribed in the school district's or charter school's instructional time model adopted under section 15-901.08.
6. "Daily route mileage" means the sum of:
   (a) The total number of miles driven daily by all buses of a school
district while transporting eligible students from their residence to the
school of attendance and from the school of attendance to their residence
on scheduled routes approved by the superintendent of public instruction.
   (b) The total number of miles driven daily on routes approved by the
superintendent of public instruction for which a private party, a political
subdivision or a common or a contract carrier is reimbursed for bringing an
eligible student from the place of the student's residence to a school
transportation pickup point or to the school of attendance and from the
school transportation scheduled return point or from the school of
attendance to the student's residence. Daily route mileage includes the
total number of miles necessary to drive to transport eligible students from
and to their residence as provided in this paragraph.
7. "District support level" means the base support level plus the
   transportation support level.
8. "Eligible students" means:
   (a) Students who are transported by or for a school district and who
qualify as full-time students or fractional students, except students for
whom transportation is paid by another school district or a county school
superintendent, and:
      (i) For common school students, whose place of actual residence
within the school district is more than one mile from the school facility
of attendance or students who are admitted pursuant to section 15-816.01
and who meet the economic eligibility requirements established under the
national school lunch and child nutrition acts (42 United States Code
sections 1751 through 1793) for free or reduced-price lunches and whose
actual place of residence outside the school district boundaries is more
than one mile from the school facility of attendance.
      (ii) For high school students, whose place of actual residence within
the school district is more than one and one-half miles from the school
facility of attendance or students who are admitted pursuant to section
15-816.01 and who meet the economic eligibility requirements established
under the national school lunch and child nutrition acts (42 United States
Code sections 1751 through 1793) for free or reduced-price lunches and whose
actual place of residence outside the school district boundaries is more
than one and one-half miles from the school facility of attendance.
   (b) Kindergarten students, for purposes of computing the number of
eligible students under subdivision (a), item (i) of this paragraph, shall
be counted as full-time students, notwithstanding any other provision of
law.
   (c) Children with disabilities, as defined by section 15-761, who
are transported by or for the school district or who are admitted pursuant
to chapter 8, article 1.1 of this title and who qualify as full-time students
or fractional students regardless of location or residence within the school
district or children with disabilities whose transportation is required by
the pupil's individualized education program.
(d) Students whose residence is outside the school district and who are transported within the school district on the same basis as students who reside in the school district.

9. "Enrolled" or "enrollment" means that a pupil is currently registered in the school district.

10. "GDP price deflator" means the average of the four implicit price deflators for the gross domestic product reported by the United States department of commerce for the four quarters of the calendar year.

11. "High school district" means a political subdivision of this state offering instruction to students for grades nine through twelve or that portion of the budget of a common school district that is allocated to teaching high school subjects with permission of the state board of education.

12. "INSTRUCTIONAL HOURS" OR "INSTRUCTIONAL TIME" MEANS HOURS OR TIME SPENT PURSUANT TO AN INSTRUCTIONAL TIME MODEL ADOPTED UNDER SECTION 15-901.08.

13. "Revenue control limit" means the base revenue control limit plus the transportation revenue control limit.

14. "Student count" means average daily membership as prescribed in this subsection for the fiscal year before the current year, except that for the purpose of budget preparation student count means average daily membership as prescribed in this subsection for the current year.

15. "Submit electronically" means submitted in a format and in a manner prescribed by the department of education.

16. "Total bus mileage" means the total number of miles driven by all buses of a school district during the school year.

17. "Total students transported" means all eligible students transported from their place of residence to a school transportation pickup point or to the school of attendance and from the school of attendance or from the school transportation scheduled return point to their place of residence.

18. "Unified school district" means a political subdivision of this state offering instruction to students in programs for preschool children with disabilities and kindergarten programs and grades one through twelve.

B. In this title, unless the context otherwise requires:

1. "Base" means the revenue level per student count specified by the legislature.

2. "Base level" means the following amounts plus the percentage increases to the base level as provided in sections 15-902.04 and 15-952, except that if a school district or charter school is eligible for an increase in the base level as provided in two or more of these sections, the base level amount shall be calculated by compounding rather than adding the sum of one plus the percentage of the increase from those different sections:

(a) For fiscal year 2018-2019, $3,960.07.

(b) For fiscal year 2019-2020, $4,150.43.

(c) For fiscal year 2020-2021, $4,305.73.

(c) FOR FISCAL YEAR 2021-2022, $4,390.65.
3. "Base revenue control limit" means the base revenue control limit computed as provided in section 15-944.

4. "Base support level" means the base support level as provided in section 15-943.

5. "Certified teacher" means a person who is certified as a teacher pursuant to the rules adopted by the state board of education, who renders direct and personal services to schoolchildren in the form of instruction related to the school district's educational course of study and who is paid from the maintenance and operation section of the budget.

6. "DD" means programs for children with developmental delays who are at least three years of age but under ten years of age. A preschool child who is categorized under this paragraph is not eligible to receive funding pursuant to section 15-943, paragraph 2, subdivision (b).

7. "ED, MIID, SLD, SLI and OHI" means programs for children with emotional disabilities, mild intellectual disabilities, a specific learning disability, a speech/language impairment and other health impairments. A preschool child who is categorized as SLI under this paragraph is not eligible to receive funding pursuant to section 15-943, paragraph 2, subdivision (b).

8. "ED-P" means programs for children with emotional disabilities who are enrolled in private special education programs as prescribed in section 15-765, subsection D, paragraph 1 or in an intensive school district program as provided in section 15-765, subsection D, paragraph 2.

9. "ELL" means English learners who do not speak English or whose native language is not English, who are not currently able to perform ordinary classroom work in English and who are enrolled in an English language education program pursuant to sections 15-751, 15-752 and 15-753.

10. "Full-time equivalent certified teacher" or "FTE certified teacher" means for a certified teacher the following:

(a) If employed full time as defined in section 15-501, 1.00.

(b) If employed less than full time, multiply 1.00 by the percentage of a full school day, or its equivalent, or a full class load, or its equivalent, for which the teacher is employed as determined by the governing board.

11. "G" MEANS EDUCATIONAL PROGRAMS FOR GIFTED PUPILS WHO SCORE AT OR ABOVE THE NINETY-SEVENTH PERCENTILE, BASED ON NATIONAL NORMS, ON A TEST ADOPTED BY THE STATE BOARD OF EDUCATION.

12. "Group A" means educational programs for career exploration, a specific learning disability, an emotional disability, a mild intellectual disability, remedial education, a speech/language impairment, developmental delay, homebound—PUPILS, bilingual—PUPILS AND PUPILS WITH other health impairments and gifted pupils.

13. "Group B" means educational improvements for pupils in kindergarten programs and grades one through three, educational programs for autism, a hearing impairment, a moderate intellectual disability, multiple disabilities, multiple disabilities with severe sensory impairment, orthopedic impairments, preschool severe delay, a severe intellectual disability and emotional disabilities for school age pupils enrolled in private special education programs or in school district programs for
children with severe disabilities or visual impairment and English learners enrolled in a program to promote English language proficiency pursuant to section 15-752.

14. "HI" means programs for pupils with hearing impairment.

15. "Homebound" or "hospitalized" means a pupil who is capable of profiting from academic instruction but is unable to attend school due to illness, disease, accident or other health conditions, who has been examined by a competent medical doctor and who is certified by that doctor as being unable to attend regular classes for a period of not less than three school months or a pupil who is capable of profiting from academic instruction but is unable to attend school regularly due to chronic or acute health problems, who has been examined by a competent medical doctor and who is certified by that doctor as being unable to attend regular classes for intermittent periods of time totaling three school months during a school year. The medical certification shall state the general medical condition, such as illness, disease or chronic health condition, that is the reason that the pupil is unable to attend school. Homebound or hospitalized includes a student who is unable to attend school for a period of less than three months due to a pregnancy if a competent medical doctor, after an examination, certifies that the student is unable to attend regular classes due to risk to the pregnancy or to the student's health.

16. "K-3" means kindergarten programs and grades one through three.

17. "K-3 reading" means reading programs for pupils in kindergarten programs and grades one, two and three.


20. "MD-SSI" means a program for pupils with multiple disabilities with severe sensory impairment.


22. "OI-R" means a resource program for pupils with orthopedic impairments.

23. "OI-SC" means a self-contained program for pupils with orthopedic impairments.


25. "P-SD" means programs for children who meet the definition of preschool severe delay as provided in section 15-771.

26. "Qualifying tax rate" means the qualifying tax rate specified in section 15-971 applied to the assessed valuation used for primary property taxes.

27. "Small isolated school district" means a school district that meets all of the following:

(a) Has a student count of fewer than six hundred in kindergarten programs and grades one through eight or grades nine through twelve.
(b) Contains no school that is fewer than thirty miles by the most reasonable route from another school, or, if road conditions and terrain make the driving slow or hazardous, fifteen miles from another school that teaches one or more of the same grades and is operated by another school district in this state.

(c) Is designated as a small isolated school district by the superintendent of public instruction.

28. "Small school district" means a school district that meets all of the following:

(a) Has a student count of fewer than six hundred in kindergarten programs and grades one through eight or grades nine through twelve.

(b) Contains at least one school that is fewer than thirty miles by the most reasonable route from another school that teaches one or more of the same grades and is operated by another school district in this state.

(c) Is designated as a small school district by the superintendent of public instruction.

29. "Transportation revenue control limit" means the transportation revenue control limit computed as prescribed in section 15-946.

30. "Transportation support level" means the support level for pupil transportation operating expenses as provided in section 15-945.

31. "VI" means programs for pupils with visual impairments.
EXPLANATION OF BLEND
SECTION 15-1021

Laws 2021, Chapters 299 and 404

Laws 2021, Ch. 299, section 5  Effective September 29, 2021
Laws 2021, Ch. 404, section 38  Effective September 29, 2021

Explanation

Since these two enactments are compatible, the Laws 2021, Ch. 299 and Ch. 404 text changes to section 15-1021 are blended in the form shown on the following pages.
15-1021. Limit on bonded indebtedness; limit on authorization
and issuance of bonds; definitions

A. Until December 31, 1999, a school district may issue class A bonds
for the purposes specified in this section and chapter 4, article 5 of this
title to an amount in the aggregate, including the existing indebtedness,
not exceeding fifteen percent of the taxable property used for secondary
property tax purposes, as determined pursuant to title 42, chapter 15,
article 1, within a school district as ascertained by the last property tax
assessment previous to issuing the bonds.

B. From and after December 31, 1998, a school district may issue
class B bonds for the purposes specified in this section and chapter 4,
article 5 of this title to an amount in the aggregate, including the existing
class B indebtedness, not exceeding ten percent of the net assessed value
of the full cash value of the property in that school district, or
one thousand five hundred dollars $1,500 per student count pursuant to
section 15-901, subsection A, paragraph 13 14, whichever amount is greater.
A school district shall not issue class B bonds until the proceeds of any
class A bonds issued by the school district have been obligated in
contract. The total amount of class A and class B bonds issued by a school
district shall not exceed the debt limitations prescribed in article IX,
section 8, Constitution of Arizona.

C. Until December 31, 1999, a unified school district, as defined
under article IX, section 8.1, Constitution of Arizona, may issue class A
bonds for the purposes specified in this section and chapter 4, article 5
of this title to an amount in the aggregate, including the existing
indebtedness, not exceeding thirty percent of the taxable property used for
secondary property tax purposes, as determined pursuant to title 42, chapter
15, article 1, within a unified school district as ascertained by the last
property tax assessment previous to issuing the bonds.

D. From and after December 31, 1998, a unified school district, as
defined under article IX, section 8.1, Constitution of Arizona, may issue
class B bonds for the purposes specified in this section and chapter 4,
article 5 of this title to an amount in the aggregate, including the existing
class B indebtedness, not exceeding twenty percent of the net assessed value
of the full cash value of the property in that school district, or
one thousand five hundred dollars $1,500 per student count pursuant to
section 15-901, subsection A, paragraph 13 14, whichever amount is greater.
A unified school district shall not issue class B bonds until the proceeds
of any class A bonds issued by the unified school district have been
obligated in contract. The total amount of class A and class B bonds issued
by a unified school district shall not exceed the debt limitations prescribed
in article IX, section 8.1, Constitution of Arizona.
E. Bonds authorized to be issued by an election held after July 1, 1980 and before November 24, 2009 may not be issued more than six years after the date of the election, except that the time period may be extended to ten years pursuant to an election conducted pursuant to section 15-491, subsection A, paragraph 6 and except that class A bonds shall not be issued after December 31, 1999. Bonds authorized to be issued by an election held after November 24, 2009 may not be issued more than ten years after the date of the election.

F. Except as provided in section 15-491, subsection A, paragraph 3, bond proceeds shall not be expended for items whose useful life is less than the average life of the bonds issued, except that bond proceeds shall not be expended for items whose useful life is less than five years.

G. A career technical education district shall not spend class B bond proceeds to construct or renovate a facility located on the campus of a school in a school district that participates in the career technical education district unless the facility is only used to provide career and technical education and is available to all pupils who live within the career technical education district. If the facility is not owned by the career technical education district, an intergovernmental agreement or a written contract shall be executed for ten years or the duration of the bonded indebtedness, whichever is greater. The intergovernmental agreement or written contract shall include provisions:

1. That preserve the usage of the facility renovated or constructed, or both, only for career and technology programs operated by the career technical education district.

2. That include the process to be used by the participating district to compensate the career technical education district in the event that the facility is no longer used only for career and technical education programs offered by the career technical education district during the life of the bond.

H. A school district shall not authorize, issue or sell bonds pursuant to this section if the school district has any existing indebtedness from impact aid revenue bonds pursuant to TITLE 41, chapter 16 56, article 8 of this title, except for bonds issued to refund any bonds issued by the governing board.

I. For the purposes of this section, "full cash value" and "net assessed value" have the same meanings prescribed in section 42-11001.
EXPLANATION OF BLEND
SECTION 16-311

Laws 2021, Chapters 194 and 230

Laws 2021, Ch. 194, section 1  Effective September 29, 2021
Laws 2021, Ch. 230, section 5  Effective September 29, 2021

Explanation

Since these two enactments are compatible, the Laws 2021, Ch. 194 and Ch. 230 text changes to section 16-311 are blended in the form shown on the following pages.
16-311. Nomination papers; statement of interest; filing; definitions

A. Any person desiring to become a candidate at a primary election for a political party and to have the person's name printed on the official ballot shall be a qualified elector of the party and, not less than one hundred twenty nor more than one hundred fifty days before the primary election, shall sign and cause to be filed a nomination paper giving the person's actual residence address or, IF THE PERSON DOES NOT HAVE AN ACTUAL RESIDENCE ADDRESS, A description of place of residence and post office address, OR, IF THE PERSON'S ACTUAL RESIDENCE ADDRESS IS PROTECTED PURSUANT TO SECTION 16-153, A POST OFFICE BOX OR PRIVATE MAILBOX ADDRESS IN THE CANDIDATE'S DISTRICT OR PRECINCT, AS APPLICABLE FOR A DISTRICT OR PRECINCT OFFICE, naming the party of which the person desires to become a candidate, stating the office and district or precinct, if any, for which the person offers the person's candidacy, stating the exact manner in which the person desires to have the person's name printed on the official ballot pursuant to subsection G of this section, and giving the date of the primary election and, if nominated, the date of the general election at which the person desires to become a candidate. Except for a candidate for United States senator or representative in Congress, a candidate for public office shall be a qualified elector at the time of filing and shall reside in the county, district or precinct that the person proposes to represent. A candidate for partisan public office shall be continuously registered with the political party of which the person desires to be a candidate beginning no later than the date of the first petition signature on the candidate's petition through the date of the general election at which the person is a candidate.

B. Any person desiring to become a candidate at any nonpartisan election and to have the person's name printed on the official ballot shall be at the time of filing a qualified elector of the county, city, town or district and, not less than one hundred twenty nor more than one hundred fifty days before the election, shall sign and cause to be filed a nomination paper giving the person's actual residence address or, IF THE PERSON DOES NOT HAVE AN ACTUAL RESIDENCE ADDRESS, A description of place of residence and post office address, OR, IF THE PERSON'S ACTUAL RESIDENCE ADDRESS IS PROTECTED PURSUANT TO SECTION 16-153, A POST OFFICE BOX OR PRIVATE MAILBOX ADDRESS IN THE CANDIDATE'S COUNTY, CITY, TOWN OR DISTRICT AND WARD OR PRECINCT, AS APPLICABLE FOR A COUNTY, CITY, TOWN OR DISTRICT AND WARD OR PRECINCT OFFICE, stating the office and county, city, town or district and ward or precinct, if any, for which the person offers the person's candidacy, stating the exact manner in which the person desires to have the person's name printed on the official ballot pursuant to subsection G of this section and giving the date of the election. A candidate for office shall reside at
the time of filing in the county, city, town, district, ward or precinct that the person proposes to represent.

C. Notwithstanding subsection B of this section, any city or town may adopt by ordinance for its elections the time frame provided in subsection A of this section for filing nomination petitions. The ordinance shall be adopted not less than one hundred fifty days before the first election to which it applies.

D. All persons desiring to become a candidate shall file with the nomination paper provided for in subsection A of this section a declaration, which shall be printed in a form prescribed by the secretary of state. The declaration shall include facts sufficient to show that, other than the residency requirement provided in subsection A of this section and the satisfaction of any monetary penalties, fines or judgments as prescribed in subsection J of this section, the candidate will be qualified at the time of election to hold the office the person seeks, and that for any monetary penalties, fines or judgments as prescribed in subsection J of this section, the candidate has made complete payment before the time of filing.

E. The nomination paper of a candidate for the office of United States senator or representative in Congress, for the office of presidential elector or for a state office, including a member of the legislature, or for any other office for which the electors of the entire state or a subdivision of the state greater than a county are entitled to vote, shall be filed with the secretary of state no later than 5:00 p.m. on the last date for filing.

F. The nomination paper of a candidate for superior court judge or for a county, district and precinct office for which the electors of a county or a subdivision of a county other than an incorporated city or town are entitled to vote shall be filed with the county elections officer no later than 5:00 p.m. on the last date for filing as prescribed by subsection A of this section. The nomination paper of a candidate for a city or town office shall be filed with the city or town clerk no later than 5:00 p.m. on the last date for filing. The nomination paper of a candidate for school district office shall be filed with the county school superintendent no later than 5:00 p.m. on the last date for filing.

G. The nomination paper shall include the exact manner in which the candidate desires to have the person's name printed on the official ballot and shall be limited to the candidate's surname and given name or names, an abbreviated version of such names or appropriate initials such as "Bob" for "Robert", "Jim" for "James", "Wm." for "William" or "S." for "Samuel". Nicknames are permissible, but in no event shall nicknames, abbreviated versions or initials of given names MAY NOT suggest reference to professional, fraternal, religious or military titles AND MAY NOT INCLUDE A SLOGAN, A PROMOTIONAL WORD OR PHRASE OR ANY WORD THAT DOES NOT ACTUALLY CONSTITUTE A NICKNAME. No other descriptive name or names shall be printed on the official ballot, except as provided in this section. Candidates' abbreviated names or nicknames may be printed within quotation marks. The candidate's surname shall be printed first, followed by the given name or names.

H. Not later than the date of the first petition signature on a nomination petition, a person who may be a candidate for office pursuant to this section shall file a statement of interest with the appropriate filing
officer for that office. The statement of interest shall contain the name of the person, the political party, if any, and the name of the office that may be sought. Any nomination petition signatures collected before the date the statement of interest is filed are invalid and subject to challenge. This subsection does not apply to:

1. Candidates for elected office for special taxing districts that are established pursuant to title 48, chapter 12, 15, 18, 19, 20, 22, 27, and 32.
2. Candidates for precinct committeeman.
3. Candidates for president or vice president of the United States.

I. A person who does not file a timely nomination paper that complies with this section is not eligible to have the person's name printed on the official ballot for that office. The filing officer shall not accept the nomination paper of a candidate for state or local office unless the person provides or has provided all of the following:

1. The financial disclosure statement as prescribed for candidates for that office.
2. The declaration of qualification and eligibility as prescribed in subsection D of this section.

J. Except in cases where the liability is being appealed, the filing officer shall not accept the nomination paper of a candidate for state or local office if the person is liable for an aggregation of $1,000 or more in fines, penalties, late fees or administrative or civil judgments, including any interest or costs, in any combination, that have not been fully satisfied at the time of the attempted filing of the nomination paper and the liability arose from failure to comply with or enforcement of chapter 6 of this title.

K. For the purposes of this title:

1. "Election district" means the state, any county, city, town, precinct or other political subdivision or a special district that is not a political subdivision, that is authorized by statute to conduct an election and that is authorized or required to conduct its election in accordance with this title.

2. "Nomination paper" means the form filed with the appropriate office by a person wishing to declare the person's intent to become a candidate for a particular political office.
EXPLANATION OF BLEND
SECTION 16-312

Laws 2021, Chapters 194, 230 and 318

Laws 2021, Ch. 194, section 2  Effective September 29, 2021
Laws 2021, Ch. 230, section 6  Effective September 29, 2021
Laws 2021, Ch. 318, section 1  Effective September 29, 2021

Explanation

Since these three enactments are compatible, the Laws 2021, Ch. 194, Ch. 230 and Ch. 318 text changes to section 16-312 are blended in the form shown on the following pages.
16-312. Filing of nomination papers for write-in candidates

A. Any person desiring to become a write-in candidate for an elective office in any election shall be at the time of filing a qualified elector of the county or district the person proposes to represent and shall have been a resident of that county or district for one hundred twenty days before the date of the election, except that for a city or town office, section 9-232 applies with respect to residency for the candidate. The person shall file a nomination paper, signed by the candidate, giving the person's actual residence address or, if the person does not have an actual residence address, a description of place of residence and post office address, or, if the person's actual residence address is protected pursuant to section 16-153, a post office box or private mailbox address in the candidate's district, precinct or municipality, as applicable for the district, precinct or municipal office that the person proposes to represent, and the person's age, length of residence in the state and date of birth.

B. A write-in candidate shall file the nomination paper not earlier than one hundred fifty days before the election and not later than 5:00 p.m. on the fortieth day before the election, except that:

1. A candidate running as a write-in candidate as provided in section 16-343, subsection D shall file the nomination paper not later than 5:00 p.m. on the fifth day before the election.

2. A candidate running as a write-in candidate for an election that may be canceled pursuant to section 16-410 shall file the nomination paper not later than 5:00 p.m. on the seventy-sixth one hundred sixth day before the election.

C. The write-in filing procedure shall be in the same manner as prescribed in section 16-311. Any person who does not file a timely nomination paper shall not be counted in the tally of ballots. The filing officer shall not accept the nomination paper of a candidate for state or local office unless the candidate provides or has provided the financial disclosure statement as prescribed for candidates for that office.

D. Except in cases where the liability is being appealed, the filing officer shall not accept the nomination paper of a write-in candidate for state or local office if the person is liable for an aggregation of one thousand dollars or more in fines, penalties, late fees or administrative or civil judgments, including any interest or costs, in any combination, that have not been fully satisfied at the time of the attempted filing of the nomination paper and the liability arose from failure to comply with or enforcement of chapter 6 of this title.

E. The secretary of state shall notify the various boards of supervisors as to write-in candidates filing with the secretary of state's office. The county school superintendent shall notify the appropriate board of supervisors as to write-in candidates filing with the superintendent's
office. The board of supervisors shall notify the appropriate election board inspector of all candidates who have properly filed such statements. In the case of a city or town election, the city or town clerk shall notify the appropriate election board inspector of candidates properly filed. No other write-ins shall be counted. The election board inspector shall post the notice of official write-in candidates in a conspicuous location within the polling place.

F. Except as provided in section 16-343, subsection E, a candidate may not file pursuant to this section if any of the following applies:

1. For a candidate in the general election, the candidate ran in the immediately preceding primary election and failed to be nominated to the office sought in the current election.

2. For a candidate in the general election, the candidate filed a nomination petition for the immediately preceding primary election for the office sought and failed to provide a sufficient number of valid petition signatures as prescribed by section 16-322.

3. For a candidate in the primary election, the candidate filed a nomination petition for the current primary election for the office sought and failed to provide a sufficient number of valid petition signatures as prescribed by section 16-322, withdrew from the primary election after a challenge was filed or was removed from or otherwise determined by court order to be ineligible for the primary election ballot.

4. For a candidate in the general election, the candidate filed a nomination petition for nomination other than by primary for the office sought and failed to provide a sufficient number of valid petition signatures as prescribed by section 16-341.

G. A person who files a nomination paper pursuant to this section for the office of president of the United States shall designate in writing to the secretary of state at the time of filing the name of the candidate's vice-presidential running mate, the names of presidential electors who will represent that candidate and a statement signed by the vice-presidential running mate and designated presidential electors that indicates their consent to be designated. A nomination paper for each presidential elector designated shall be filed with the candidate's nomination paper. The number of presidential electors shall equal the number of United States senators and representatives in Congress from this state.
EXPLANATION OF BLEND
SECTION 16-341

Laws 2021, Chapters 194 and 230

Laws 2021, Ch. 194, section 4                           Effective September 29, 2021
Laws 2021, Ch. 230, section 7                           Effective September 29, 2021

Explanation

Since these two enactments are compatible, the Laws 2021, Ch. 194 and Ch. 230 text changes to section 16-341 are blended in the form shown on the following pages.
16-341. **Nomination petition: method and time of filing; form; qualifications and number of petitioners required; statement of interest**

A. Any qualified elector who is not a registered member of a political party that is recognized pursuant to this title may be nominated as a candidate for public office otherwise than by primary election or by party committee pursuant to this section.

B. This article shall not be used to place on the general election ballot the name of a political party that fails to meet the qualifications specified in section 16-802 or 16-804, or the name of any candidate representing such party or the name of a candidate who has filed a nomination petition in the immediately preceding primary election and has failed to qualify as the result of an insufficient number of valid signatures.

C. A nomination petition stating the name of the office to be filled, the name and residence of the candidate, OR, IF THE CANDIDATE DOES NOT HAVE AN ACTUAL RESIDENCE ADDRESS, A DESCRIPTION OF PLACE OF RESIDENCE AND POST OFFICE ADDRESS, OR, IF THE PERSON'S ACTUAL RESIDENCE ADDRESS IS PROTECTED PURSUANT TO SECTION 16-153, A POST OFFICE BOX OR PRIVATE MAILBOX ADDRESS IN THE CANDIDATE'S DISTRICT, PRECINCT OR MUNICIPALITY, AS APPLICABLE FOR A DISTRICT, PRECINCT OR MUNICIPAL OFFICE, and other information required by this section shall be filed with the same officer with whom primary nomination papers and petitions are required to be filed as prescribed in section 16-311. Except for candidates for the office of presidential elector filed pursuant to this section, the petition shall be filed not less than one hundred twenty days nor more than one hundred fifty days before the primary election. The petition shall be signed only by voters who have not signed the nomination petitions of a candidate for the office to be voted for at that primary election.

D. The nomination petition shall be in substantially the following form, EXCEPT THAT IF THE CANDIDATE DOES NOT HAVE AN ACTUAL RESIDENCE ADDRESS, THE CANDIDATE MAY USE A DESCRIPTION OF PLACE OF RESIDENCE AND POST OFFICE ADDRESS, OR, IF THE CANDIDATE'S ACTUAL RESIDENCE ADDRESS IS PROTECTED PURSUANT TO SECTION 16-153, A POST OFFICE BOX OR PRIVATE MAILBOX ADDRESS IN THE CANDIDATE'S DISTRICT, PRECINCT OR MUNICIPALITY, AS APPLICABLE FOR A DISTRICT, PRECINCT OR MUNICIPAL OFFICE, IS SUFFICIENT:

The undersigned, qualified electors of _________ county, state of Arizona, do hereby nominate _______, who resides at _________ in the county of _______, as a candidate for the office of _________ at the general (or special, as the case may be) election to be held on the _________ day of _______, ____.

I hereby declare that I have not signed the nomination petitions of any candidate for the office to be voted for at this primary election, and I do hereby select the following
designation under which name the said candidate shall be placed on the official ballot (here insert such designation not exceeding three words in length as the signers may select).

E. The nomination petition shall conform as nearly as possible to the provisions relating to nomination petitions of candidates to be voted for at primary elections and shall be signed by at least the number of persons who are registered to vote determined by calculating three percent of the persons who are registered to vote of the state, county, subdivision or district for which the candidate is nominated who are not members of a political party that is qualified to be represented by an official party ballot at the next ensuing primary election and accorded representation on the general election ballot.

F. The percentage of persons who are registered to vote necessary to sign the nomination petition shall be determined by the total number of registered voters from other than political parties that are qualified to be represented by an official party ballot at the next ensuing primary election and accorded representation on the general election ballot in the state, county, subdivision or district on January 2 of the year in which the general election is held. Notwithstanding the method prescribed by subsection E of this section and this subsection for calculating the minimum number of signatures necessary, any person who is registered to vote in the state, county, subdivision or district for which the candidate is nominated is eligible to sign the nomination petition without regard to the signer's party affiliation.

G. A nomination petition for any candidate may be circulated by a person who is not a resident of this state but who is otherwise eligible to register to vote in this state if that person registers as a circulator with the secretary of state before circulating petitions. The nomination petition for the office of presidential elector shall include a group of names of candidates equal to the number of United States senators and representatives in Congress from this state instead of separate nomination petitions for each candidate for the office of presidential elector. A valid signature on a petition containing a group of presidential electors candidates is counted as a signature for the nomination of each of the candidates. The presidential candidate whom the candidates for presidential elector will represent shall designate in writing to the secretary of state the names of the candidates who will represent the presidential candidate before any signatures for the candidate can be accepted for filing. A nomination petition for the office of presidential elector shall be filed not less than sixty EIGHTY nor more than ninety ONE HUNDRED days before the general election. The petition shall be signed only by qualified electors who have not signed the nomination petitions of a candidate for the office of presidential elector to be voted for at that election.

H. The secretary of state shall require in the instructions and procedures manual issued pursuant to section 16-452 that persons who circulate nomination petitions pursuant to this section and who are not residents of this state but who are otherwise eligible to register to vote in this state shall register as circulators with the office of the secretary of state before circulating petitions. The secretary of state shall provide for
a method of receiving service of process for those petition circulators who are registered.

I. Not later than the date of the first petition signature on a nomination petition, a person who may be a candidate for office pursuant to this section shall file a statement of interest with the appropriate filing officer for that office. The statement of interest shall contain the name of the person, the political party, if any, and the name of the office that may be sought. Any nomination petition signatures collected before the date the statement of interest is filed are invalid and subject to challenge. This subsection does not apply to:

1. Candidates for elected office for special taxing districts that are established pursuant to title 48, chapters 2, 3, 11, 12, 15, 17, 18, 19, 20, 22, 27 and 32.

2. Candidates for precinct committeeman.

3. Candidates for president or vice president of the United States.

J. A person who files a nomination paper pursuant to this section for the office of president of the United States shall designate in writing to the secretary of state at the time of filing the name of the candidate's vice-presidential running mate, the names of the presidential electors who will represent that candidate and a statement that is signed by the vice-presidential running mate and the designated presidential electors that indicates their consent to be designated. A nomination paper for each presidential elector designated shall be filed with the candidate's nomination paper. The number of presidential electors shall equal the number of United States senators and representatives in Congress from this state.

K. A candidate who does not file a timely nomination petition that complies with this section is not eligible to have the candidate's name printed on the official ballot for that office. The filing officer shall not accept the nomination paper of a candidate for state or local office unless the candidate provides or has provided all of the following:

1. The financial disclosure statement as prescribed for candidates for that office.

2. The declaration of qualification and eligibility as prescribed in section 16-311.

L. Except in cases where the liability is being appealed, the filing officer shall not accept the nomination paper of a candidate for state or local office if the person is liable for an aggregation of $1,000 or more in fines, penalties, late fees or administrative or civil judgments, including any interest or costs, in any combination, that have not been fully satisfied at the time of the attempted filing of the nomination paper and the liability arose from failure to comply with or enforcement of chapter 6 of this title.

M. The secretary of state may authorize for statewide and legislative offices the creation, use and submission of petitions prescribed by this section in electronic form if those petitions provide for an appropriate method to verify signatures of petition circulators and signers. The secretary of state may require use of a unique marking system for petition pages, including a bar code, a quick response code or another similar marking system.
EXPLANATION OF BLEND
SECTION 16-547

Laws 2021, Chapters 332 and 343

Laws 2021, Ch. 332, section 1  Effective September 29, 2021
Laws 2021, Ch. 343, section 1  Effective September 29, 2021

Explanation

Since these two enactments are compatible, the Laws 2021, Ch. 332 and Ch. 343 text changes to section 16-547 are blended in the form shown on the following pages.
16-547. Ballot affidavit: form

A. The early ballot shall be accompanied by an envelope bearing on the front the name, official title and post office address of the recorder or other officer in charge of elections and on the other side a printed affidavit in substantially the following form:

I declare the following under penalty of perjury: I am a registered voter in __________ county Arizona, I have not voted and will not vote in this election in any other county or state, I understand that knowingly voting more than once in any election is a class 5 felony and I voted the enclosed ballot and signed this affidavit personally unless noted below.

If the voter was assisted by another person in marking the ballot, complete the following:

I declare the following under penalty of perjury: At the registered voter's request I assisted the voter identified in this affidavit with marking the voter's ballot, I marked the ballot as directly instructed by the voter, I provided the assistance because the voter was physically unable to mark the ballot solely due to illness, injury or physical limitation and I understand that there is no power of attorney for voting and that the voter must be able to make their THE VOTER'S selection even if they cannot physically mark the ballot.

Name of voter assistant: ____________________________

Address of voter assistant: ____________________________

B. The face of each envelope in which a ballot is sent to a federal postcard applicant or in which a ballot is returned by such THE applicant to the recorder or other officer in charge of elections shall be in the form prescribed in accordance with the uniformed and overseas citizens absentee voting act of 1986 (P.L. 99-410; #2 52 United States Code section 1973ff 20301). Otherwise, the envelopes shall be the same as those used to send ballots to, or receive ballots from, other early voters.

C. THE OFFICER CHARGED BY LAW WITH THE DUTY OF PREPARING BALLOTS AT ANY ELECTION SHALL ENSURE THAT THE EARLY BALLOT IS SENT IN AN ENVELOPE THAT STATES SUBSTANTIALLY THE FOLLOWING:

IF THE ADDRESSEE DOES NOT RESIDE AT THIS ADDRESS, MARK THE UNOPENED ENVELOPE "RETURN TO SENDER" AND DEPOSIT IT IN THE UNITED STATES MAIL.

D. The county recorder or other officer in charge of elections shall supply printed instructions to early voters that direct them to sign the affidavit, mark the ballot and return both in the enclosed self-addressed envelope that complies with section 16-545. The instructions shall include the following statement:
In order to be valid and counted, the ballot and affidavit must be delivered to the office of the county recorder or other officer in charge of elections or may be deposited at any polling place in the county no later than 7:00 p.m. on election day. THE BALLOT WILL NOT BE COUNTED WITHOUT THE VOTER'S SIGNATURE ON THE Envelope.

WARNING—It is a felony to offer or receive any compensation for a ballot.
EXPLANATION OF BLEND
SECTION 16-550

Laws 2021, Chapters 318 and 343

Laws 2021, Ch. 318, section 2  Effective September 29, 2021
Laws 2021, Ch. 343, section 2  Effective September 29, 2021

Explanation

Since these two enactments are compatible, the Laws 2021, Ch. 318 and Ch. 343 text changes to section 16-550 are blended in the form shown on the following page.
16-550. Receipt of voter's ballot; cure period

A. On receipt of the envelope containing the early ballot and the ballot affidavit, the county recorder or other officer in charge of elections shall compare the signatures thereon with the signature of the elector on the elector's registration record. If the signature is inconsistent with the elector's signature on the elector's registration record, the county recorder or other officer in charge of elections shall make reasonable efforts to contact the voter, advise the voter of the inconsistent signature and allow the voter to correct or the county to confirm the inconsistent signature. The county recorder or other officer in charge of elections shall allow signatures to be corrected not later than the fifth business day after a primary, general or special election that includes a federal office or the third business day after any other election. IF THE SIGNATURE IS MISSING, THE COUNTY RECORDER OR OTHER OFFICER IN CHARGE OF ELECTIONS SHALL MAKE REASONABLE EFFORTS TO CONTACT THE ELECTOR, ADVISE THE ELECTOR OF THE MISSING SIGNATURE AND ALLOW THE ELECTOR TO ADD THE ELECTOR'S SIGNATURE NOT LATER THAN 7:00 P.M. ON ELECTION DAY. If satisfied that the signatures correspond, the recorder or other officer in charge of elections shall hold the envelope containing the early ballot and the completed affidavit unopened in accordance with the rules of the secretary of state.

B. The recorder or other officer in charge of elections shall thereafter safely keep the affidavits and early ballots in the recorder's or other officer's office until delivered AND MAY DELIVER THEM FOR TALLYING pursuant to section 16-551. Tallying of ballots shall not begin any earlier than fourteen days before election day immediately after the envelope and completed affidavit are processed pursuant to this section and delivered to the early election board.

C. The county recorder shall send a list of all voters who were issued early ballots to the election board of the precinct in which the voter is registered.

D. This section does not apply to:

1. A special taxing district that is authorized pursuant to section 16-191 to conduct its own elections.

2. A special district mail ballot election that is conducted pursuant to article 8.1 of this chapter.
EXPLANATION OF BLEND
SECTION 16-926

Laws 2021, Chapters 96 and 154

Laws 2021, Ch. 96, section 6  Effective September 29, 2021
Laws 2021, Ch. 154, section 1  Effective September 29, 2021

Explanation

Since these two enactments are compatible, the Laws 2021, Ch. 96 and Ch. 154 text changes to section 16-926 are blended in the form shown on the following pages.

The Laws 2021, Ch. 96 version of section 16-926 made a technical change to subsection B, paragraph 2, subdivision (a), item (i) and subdivision (b) in a different manner than the Ch. 154 version. Since this would not produce a substantive change, the blend version reflects the Ch. 154 version.
16-926. Campaign finance reports: contents

A. A committee shall file campaign finance reports with the filing officer. The secretary of state's instructions and procedures manual adopted pursuant to section 16-452 shall prescribe the format for all reports and statements.

B. A campaign finance report shall set forth:

1. The amount of cash on hand at the beginning of the reporting period.

2. Total receipts during the reporting period, including:
   (a) An itemized list of receipts in the following categories, including the source, amount and date of receipt, together with the total of all receipts in each category:
   (i) Contributions from IN-STATE individuals whose contributions exceed fifty dollars [$50] for that election cycle, including identification of the contributor's occupation and employer.
   (ii) Contributions from OUT-OF-STATE INDIVIDUALS, INCLUDING IDENTIFICATION OF THE CONTRIBUTOR'S OCCUPATION AND EMPLOYER.

   (iii) Contributions from candidate committees.
   (iv) Contributions from political action committees.
   (v) Contributions from political parties.
   (vi) Contributions from partnerships.
   (vii) For a political action committee or political party, contributions from corporations and limited liability companies, including identification of the corporation's or limited liability company's file number issued by the corporation commission.
   (viii) For a political action committee or political party, contributions from labor organizations, including identification of the labor organization's file number issued by the corporation commission.
   (ix) For a candidate committee, a candidate's contribution of personal monies.
   (x) All loans, including identification of any endorser or guarantor other than a candidate's spouse, and the contribution amount endorsed or guaranteed by each.

   (xi) Rebates and refunds.
   (xii) Interest on committee monies.
   (xiii) The fair market value of in-kind contributions received.
Extensions of credit that remain outstanding, including identification of the creditor and the purpose of the extension.

(b) The aggregate amount of contributions from all IN-STATE individuals whose contributions do not exceed fifty dollars [$100] for the election cycle.

3. An itemized list of all disbursements in excess of two hundred fifty dollars $250 during the reporting period in the following categories, including the recipient, the recipient's address, a description of the disbursement and the amount and date of the disbursement, together with the total of all disbursements in each category:

(a) Disbursements for operating expenses.
(b) Contributions to candidate committees.
(c) Contributions to political action committees.
(d) Contributions to political parties.
(e) Contributions to partnerships.
(f) For a political action committee or political party, contributions to corporations and limited liability companies, including identification of the corporation's or limited liability company's file number issued by the corporation commission.
(g) For a political action committee or political party, contributions to labor organizations, including identification of the labor organization's file number issued by the corporation commission.
(h) Repayment of loans.
(i) Refunds of contributions.
(j) Loans made.
(k) The value of in-kind contributions provided.
(l) Independent expenditures that are made to advocate the election or defeat of a candidate, including identification of the candidate, office sought by the candidate, election date, mode of advertising and distribution or publication date.
(m) Expenditures to advocate the passage or defeat of a ballot measure, including identification of the ballot measure, ballot measure serial number, election date, mode of advertising and distribution or publication date.
(n) Expenditures to advocate for or against the issuance of a recall election order or for the election or defeat of a candidate in a recall election, including identification of the officer to be recalled or candidate supported or opposed, mode of advertising and distribution or publication date.
(o) Any other disbursements or expenditures.

4. The total sum of all receipts and disbursements for the reporting period.

5. A certification by the committee treasurer, issued under penalty of perjury, that the contents of the report are true and correct.

C. For the purposes of reporting under subsection B of this section:

1. A contribution is deemed to be received either on the date the committee knowingly takes possession of the contribution or the date of
the check or credit card payment. For an in-kind contribution of
services, the contribution is deemed made either on the date the services
are performed or the date the committee receives the services.

2. An expenditure or disbursement is deemed made either on the
date the committee authorizes the monies to be spent or the date the
monies are withdrawn from the committee's account. For a transaction
by check, the expenditure or disbursement is deemed made on the date the
committee signs the check. For a credit card transaction on paper, the
expenditure or disbursement is deemed made on the date the committee
signs the authorization to charge the credit card. For an electronic
transaction, an expenditure or disbursement is deemed made on the date
the committee electronically authorizes the charge. For an agreement
to purchase goods or services, the expenditure or disbursement is deemed
made either on the date the parties enter into the agreement or the date
the purchase order is issued.

3. A committee may record its transactions using any of the
methods authorized by this subsection but for each type of contribution,
expenditure or disbursement made or received, the committee shall use a
consistent method of recording transactions throughout the election
cycle.

D. The amount of an in-kind contribution of services shall be
equal to the usual and normal charges for the services on the date
performed.

E. If any receipt or disbursement is earmarked, the committee
shall report the identity of the person to whom the receipt or
disbursement is earmarked.

F. Candidate committee reports shall be cumulative for the
election cycle to which they relate. Political action committee and
political party reports shall be cumulative for a two-year election
cycle ending in the year of a statewide general election. If there has
been no change during the reporting period in an item listed in the
immediately preceding report, only the amount need be carried forward.

G. For a political action committee that receives individual
contributions through a payroll deduction plan, that committee is not
required to separately itemize each contribution received from the
contributor during the reporting period. In lieu of itemization, the
committee may report all of the following:

1. The aggregate amount of contributions received from the
contributor through the payroll deduction plan during the reporting
period.

2. The individual's identity.

3. The amount deducted per pay period.

H. An entity that makes independent expenditures or ballot
measure expenditures in excess of one thousand dollars $1,000 during a
reporting period shall file an expenditure report with the filing officer
for the applicable reporting period. Expenditure reports shall identify
the candidate or ballot measure supported or opposed, office sought by
the candidate, if any, election date, mode of advertising and first date
of publication, display, delivery or broadcast of the advertisement.
EXPLANATION OF BLEND  
SECTION 16-1019

Laws 2021, Chapters 221 and 284

Laws 2021, Ch. 221, section 1  
Effective September 29, 2021

Laws 2021, Ch. 284, section 1  
Effective September 29, 2021

Explanation

Since these two enactments are compatible, the Laws 2021, Ch. 221 and Ch. 284 text changes to section 16-1019 are blended in the form shown on the following pages.
16-1019. Political signs; printed materials; tampering; violation; classification

A. It is a class 2 misdemeanor for any person to knowingly remove, alter, deface or cover any political sign of any candidate for public office or in support of or opposition to any ballot measure, question or issue or knowingly remove, alter or deface any political mailers, handouts, flyers or other printed materials of a candidate or in support of or opposition to any ballot measure, question or issue that are delivered by hand to a residence for the period commencing forty-five days before a primary election and ending seven FIFTEEN days after the general election, except that for a sign for a candidate in a primary election who does not advance to the general election, the period ends seven FIFTEEN days after the primary election.

B. This section does not apply to the removal, alteration, defacing or covering of a political sign or other printed materials by the candidate or the authorized agent of the candidate in support of whose election the sign or materials were placed, by a person authorized by the committee in support of or opposition to a ballot measure, question or issue that provided the sign or printed materials, by the owner or authorized agent of the owner of private property on which such signs or printed materials are placed with or without permission of the owner or placed in violation of state law or county, city or town ordinance or regulation.

C. Notwithstanding any other statute, ordinance or regulation, a city, town or county of this state shall not remove, alter, deface or cover any political sign if the following conditions are met:

1. The sign is placed in a public right-of-way that is owned or controlled by that jurisdiction.

2. The sign supports or opposes a candidate for public office or it supports or opposes a ballot measure.

3. The sign is not placed in a location that is hazardous to public safety, obstructs clear vision in the area or interferes with the requirements of the Americans with disabilities act (42 United States Code sections 12101 through 12213 and 47 United States Code sections 225 and 611).

4. The sign has a maximum area of sixteen square feet, if the sign is located in an area zoned for residential use, or a maximum area of thirty-two square feet if the sign is located in any other area.

5. The sign contains the name and telephone number or website address of the candidate or campaign committee contact person.

D. If the city, town or county deems that the placement of a political sign constitutes an emergency, the jurisdiction may immediately relocate the sign. The jurisdiction shall notify the candidate or campaign committee.
that placed the sign within twenty-four hours after the relocation. If a sign is placed in violation of subsection C of this section and the placement is not deemed to constitute an emergency, the city, town or county may notify the candidate or campaign committee that placed the sign of the violation. If the sign remains in violation at least twenty-four hours after the jurisdiction notified the candidate or campaign committee, the jurisdiction may remove the sign. The jurisdiction shall contact the candidate or campaign committee contact and shall retain the sign for at least ten business days to allow the candidate or campaign committee to retrieve the sign without penalty.

E. A city, town or county employee acting within the scope of the employee's employment is not liable for an injury caused by the failure to remove a sign pursuant to subsection D of this section unless the employee intended to cause injury or was grossly negligent.

F. Subsection C of this section does not apply to commercial tourism, commercial resort and hotel sign free zones as those zones are designated by municipalities. The total area of those zones shall not be larger than three square miles, and each zone shall be identified as a specific contiguous area where, by resolution of the municipal governing body, the municipality has determined that based on a predominance of commercial tourism, resort and hotel uses within the zone the placement of political signs within the rights-of-way in the zone will detract from the scenic and aesthetic appeal of the area within the zone and deter its appeal to tourists. Not more than two zones may be identified within a municipality.

G. A city, town or county may prohibit the installation of a sign on any structure owned by the jurisdiction.

H. Subsection C of this section applies only during the period commencing sixty SEVENTY-ONE days before a primary election and ending fifteen days after the general election, except that for a sign for a candidate in a primary election who does not advance to the general election, the period ends fifteen days after the primary election.

I. This section does not apply to state highways or routes, or overpasses over those state highways or routes.
EXPLANATION OF BLEND
SECTION 19-124

Laws 2021, Chapters 184 and 230

Laws 2021, Ch. 184, section 2       Effective September 29, 2021
Laws 2021, Ch. 230, section 15      Effective September 29, 2021

Explanation

Since these two enactments are compatible, the Laws 2021, Ch. 184 and Ch. 230 text changes to section 19-124 are blended in the form shown on the following pages.
19-124. Arguments and analyses on measures; cost; submission at special election

A. The person filing an initiative petition may at the same time file with the secretary of state an argument advocating the measure or constitutional amendment proposed in the petition. Not later than forty-eight TWENTY-SEVEN days preceding the regular primary election a person may file with the secretary of state an argument advocating or opposing the measure or constitutional amendment proposed in the petition. Not later than forty-eight TWENTY-SEVEN days preceding the regular primary election a person may file with the secretary of state an argument advocating or opposing any measure with respect to which the referendum has been invoked, or any measure or constitutional amendment referred by the legislature. The secretary of state shall prominently post on its website the dates on which the ballot measure filings are due and the date of the election. Each argument filed shall contain the sworn statement of each person sponsoring it. If the argument is sponsored by an organization, it shall contain the sworn statement of two executive officers of the organization or if sponsored by a political committee it shall contain the sworn statement of the committee's chairman or treasurer. THE NAMES OF PERSONS AND ENTITIES SUBMITTING WRITTEN ARGUMENTS SHALL BE INCLUDED IN THE PUBLICITY PAMPHLET. PERSONS SIGNING THE ARGUMENT SHALL IDENTIFY THEMSELVES BY GIVING THEIR RESIDENCE ADDRESS AND TELEPHONE NUMBER, WHICH MAY NOT APPEAR IN THE PUBLICITY PAMPHLET, EXCEPT THAT THE PERSON'S CITY OR TOWN AND STATE OF RESIDENCE SHALL APPEAR IN THE PAMPHLET. ANY ARGUMENT THAT IS SUBMITTED AND THAT DOES NOT COMPLY WITH THIS SUBDIVISION MAY NOT BE INCLUDED IN THE PAMPHLET. Each argument filed shall also be submitted to the secretary of state in electronic format. Payment of the deposit required by subsection E of this section or reimbursement of the payor constitutes sponsorship of the argument for purposes of this subsection. The person or persons signing the argument shall identify themselves by giving their residence or post office address and a telephone number, which information shall not appear in the publicity pamphlet. Each argument filed pursuant to this subsection shall not exceed three hundred words in length.

B. When the legislature orders the secretary of state to submit to the people a measure or proposed amendment to the constitution at a special election and as soon as is practicable after the legislature orders that submittal, the secretary of state shall prominently post on its website the dates on which the analysis, if any, and the arguments advocating or opposing the measure are due and the date of the election.

C. Not later than sixty TEN days preceding the regular primary election the legislative council, after providing reasonable opportunity for comments by all legislators, shall prepare and file with the secretary
of state an impartial analysis of the provisions of each ballot proposal of a measure or proposed amendment. The analysis shall include a description of the measure and shall be written in clear and concise terms avoiding technical terms wherever possible. The analysis may contain background information, including the effect of the measure on existing law, or any legislative enactment suspended by referendum, if the measure or referendum is approved or rejected.

D. The analyses and arguments shall be included in the publicity pamphlet immediately following the measure or amendment to which they refer. Arguments in the affirmative shall be placed first in order, and first among the affirmative or negative arguments shall be placed the arguments filed by the person filing the initiative petition or the person who introduced the measure or constitutional amendment referred. The remaining affirmative and negative arguments shall be placed in the order in which they were filed with the secretary of state.

E. The person filing an argument shall deposit with the secretary of state, at the time of filing, an amount of money as prescribed by the secretary of state for the purpose of offsetting a portion of the proportionate cost of the purchase of the paper and the printing of the argument. The secretary of state shall provide for electronic submittal of deposit payments. If the person filing an argument requests that the argument appear in connection with more than one proposition, a deposit shall be made for each placement requested. No such A deposit or payment shall be required for the analyses prepared and filed by the legislative council. Any proportional balance remaining of the deposit, after paying the cost, shall be returned to the depositor.

F. If a measure is submitted at a special election, and time will not permit full compliance with this article, the charter provision or ordinance providing for the special election shall make provision for printing and distribution of the publicity pamphlet.

G. In the case of referendum petitions that are not required to be filed until after the primary election or at a time so close to the primary election that a referendum cannot be certified for the ballot before the deadline for filing ballot arguments pursuant to subsection A of this section, the secretary of state may establish a separate deadline for filing the referendum ballot arguments pursuant to rules adopted by the secretary of state.
EXPLANATION OF BLEND  
SECTION 20-821  

Laws 2021, Chapters 24 and 357

Laws 2021, Ch. 24, section 4  
Effective September 29, 2021

Laws 2021, Ch. 357, section 2  
Effective September 29, 2021

Explanation

Since these two enactments are compatible, the Laws 2021, Ch. 24 and Ch. 357 text changes to section 20-821 are blended in the form shown on the following page.
20-821. Scope of article; rules; authority of director

A. Hospital service corporations, medical service corporations, dental service corporations, optometric service corporations and hospital, medical, dental and optometric service corporations incorporated in this state are governed by this article and are exempt from all other provisions of this title, except as expressly provided by this article and any rule adopted by the director pursuant to section 20-143 relating to contracts of such service corporations. No insurance law enacted after January 1, 1955 applies to such corporations unless the law specifically refers to corporations.


C. Chapter 21 of this title applies to a hospital service corporation, a medical service corporation or a hospital and medical service corporation.
EXPLANATION OF BLEND
SECTION 23-901

Laws 2021, Chapters 229 and 333

Laws 2021, Ch. 229, section 4 Effective September 29, 2021
Laws 2021, Ch. 333, section 1 Effective September 29, 2021

Explanation

Since these two enactments are compatible, the Laws 2021, Ch. 229 and Ch. 333 text changes to section 23-901 are blended in the form shown on the following pages.
23-901. Definitions
In this chapter, unless the context otherwise requires:
1. "Award" means the finding or decision of an administrative law judge or the commission as to the amount of compensation or benefit due an injured employee or the dependents of a deceased employee.
2. "Client" means an individual, association, company, firm, partnership, corporation or any other legally recognized entity that is subject to this chapter and that enters into a professional employer agreement with a professional employer organization.
3. "Co-employee" means every person employed by an injured employee's employer.
5. "Compensation" means the compensation and benefits provided by this chapter.
6. "Employee", "workman", "worker" and "operative" means:
   (a) Every person in the service of this state or a county, city, town, municipal corporation or school district, including regular members of lawfully constituted police and fire departments of cities and towns, whether by election, appointment or contract of hire.
   (b) Every person in the service of any employer subject to this chapter, including aliens and minors legally or illegally allowed to work for hire, but not including a person whose employment is both:
      (i) Casual.
      (ii) Not in the usual course of the trade, business or occupation of the employer.
   (c) Lessees of mining property and the lessees' employees and contractors engaged in the performance of work that is a part of the business conducted by the lessor and over which the lessor retains supervision or control are within the meaning of this paragraph employees of the lessor, and are deemed to be drawing wages as are usually paid employees for similar work. The lessor may deduct from the proceeds of ores mined by the lessees the premium required by this chapter to be paid for such employees.
   (d) Regular members of volunteer fire departments organized pursuant to title 48, chapter 5, article 1, regular firefighters of any volunteer fire department, including private fire protection service organizations, organized pursuant to title 10, chapters 24 through 40, volunteer firefighters serving as members of a fire department of any incorporated city or town or an unincorporated area without pay or without full pay and on a part-time basis, and voluntary policemen and volunteer firefighters serving in any incorporated city, town or unincorporated area without pay or without full pay and on a part-time basis, are deemed to be employees, but for the purposes of this chapter, the basis for computing wages for premium payments and compensation benefits for regular members of volunteer
fire departments organized pursuant to title 48, chapter 5, article 1, or organized pursuant to title 10, chapters 24 through 40, regular members of any private fire protection service organization, volunteer firefighters and volunteer policemen of these departments or organizations shall be the salary equal to the beginning salary of the same rank or grade in the full-time service with the city, town, volunteer fire department or private fire protection service organization, provided if there is no full-time equivalent then the salary equivalent shall be as determined by resolution of the governing body of the city, town or volunteer fire department or corporation.

(e) Members of the department of public safety reserve, organized pursuant to section 41-1715, are deemed to be employees. For the purposes of this chapter, the basis for computing wages for premium payments and compensation benefits for a member of the department of public safety reserve who is a peace officer shall be the salary received by officers of the department of public safety for the officers' first month of regular duty as an officer. For members of the department of public safety reserve who are not peace officers, the basis for computing premiums and compensation benefits is $400 a month.

(f) Any person placed in on-the-job evaluation or in on-the-job training under the department of economic security's temporary assistance for needy families program or vocational rehabilitation program shall be deemed to be an employee of the department for the purpose of coverage under the state workers' compensation laws only. The basis for computing premium payments and compensation benefits shall be $200 per month. Any person receiving vocational rehabilitation services under the department of economic security's vocational rehabilitation program whose major evaluation or training activity is academic, whether as an enrolled attending student or by correspondence, or who is confined to a hospital or penal institution, shall not be deemed to be an employee of the department for any purpose.

(g) Regular members of a volunteer sheriff's reserve, which may be established by resolution of the county board of supervisors, to assist the sheriff in the performance of the sheriff's official duties. A roster of the current members shall monthly be certified to the clerk of the board of supervisors by the sheriff and shall not exceed the maximum number authorized by the board of supervisors. Certified members of an authorized volunteer sheriff's reserve shall be deemed to be employees of the county for the purpose of coverage under the Arizona workers' compensation laws and occupational disease disability laws and shall be entitled to receive the benefits of these laws for any compensable injuries or disabling conditions that arise out of and occur in the course of the performance of duties authorized and directed by the sheriff. Compensation benefits and premium payments shall be based on the salary received by a regular full-time deputy sheriff of the county involved for the first month of regular patrol duty as an officer for each certified member of a volunteer sheriff's reserve. This subdivision does not provide compensation coverage for any member of a sheriff's posse who is not a certified member of an authorized volunteer sheriff's reserve except as a participant in a search and rescue mission or a search and rescue training mission.
(h) A working member of a partnership may be deemed to be an employee entitled to the benefits provided by this chapter on written acceptance, by endorsement, at the discretion of the insurance carrier for the partnership of an application for coverage by the working partner. The basis for computing premium payments and compensation benefits for the working partner shall be an assumed average monthly wage of not less than $600 or more than the maximum wage provided in section 23-1041 and is subject to the discretionary approval of the insurance carrier. Any compensation for permanent partial or permanent total disability payable to the partner is computed on the lesser of the assumed monthly wage agreed to by the insurance carrier on the acceptance of the application for coverage or the actual average monthly wage received by the partner at the time of injury.

(i) The sole proprietor of a business subject to this chapter may be deemed to be an employee entitled to the benefits provided by this chapter on written acceptance, by endorsement, at the discretion of the insurance carrier of an application for coverage by the sole proprietor. The basis for computing premium payments and compensation benefits for the sole proprietor is an assumed average monthly wage of not less than $600 or more than the maximum wage provided by section 23-1041 and is subject to the discretionary approval of the insurance carrier. Any compensation for permanent partial or permanent total disability payable to the sole proprietor shall be computed on the lesser of the assumed monthly wage agreed to by the insurance carrier on the acceptance of the application for coverage or the actual average monthly wage received by the sole proprietor at the time of injury.

(j) A member of the Arizona national guard, Arizona state guard or unorganized militia shall be deemed a state employee and entitled to coverage under the Arizona workers' compensation law at all times while the member is receiving the payment of the member's military salary from this state under competent military orders or on order of the governor. Compensation benefits shall be based on the monthly military pay rate to which the member is entitled at the time of injury, but not less than a salary of $400 per month, or more than the maximum provided by the workers' compensation law. Arizona compensation benefits shall not inure to a member compensable under federal law.

(k) Certified ambulance drivers and attendants who serve without pay or without full pay on a part-time basis are deemed to be employees and entitled to the benefits provided by this chapter and the basis for computing wages for premium payments and compensation benefits for certified ambulance personnel shall be $400 per month.

(l) Volunteer workers of a licensed health care institution may be deemed to be employees and entitled to the benefits provided by this chapter on written acceptance by the insurance carrier of an application by the health care institution for coverage of such volunteers. The basis for computing wages for premium payments and compensation benefits for volunteers shall be $400 per month.

(m) Personnel who participate in a search or rescue operation or a search or rescue training operation that carries a mission identifier assigned by the division of emergency management as provided in section
and who serve without compensation as volunteer state employees. The basis for computation of wages for premium purposes and compensation benefits is the total volunteer man-hours recorded by the division of emergency management in a given quarter multiplied by the amount determined by the appropriate risk management formula.

(n) Personnel who participate in emergency management training, exercises or drills that are duly enrolled or registered with the division of emergency management or any political subdivision as provided in section 26-314, subsection C and who serve without compensation as volunteer state employees. The basis for computation of wages for premium purposes and compensation benefits is the total volunteer man-hours recorded by the division of emergency management or political subdivision during a given training session, exercise or drill multiplied by the amount determined by the appropriate risk management formula.

(o) Regular members of the Arizona game and fish department reserve, organized pursuant to section 17-214. The basis for computing wages for premium payments and compensation benefits for a member of the reserve is the salary received by game rangers and wildlife managers of the Arizona game and fish department for the game rangers' and wildlife managers' first month of regular duty.

(p) Every person employed pursuant to a professional employer agreement.

(q) A working member of a limited liability company who owns less than fifty percent of the membership interest in the limited liability company.

(r) A working member of a limited liability company who owns fifty percent or more of the membership interest in the limited liability company may be deemed to be an employee entitled to the benefits provided by this chapter on the written acceptance, by endorsement, of an application for coverage by the working member at the discretion of the insurance carrier for the limited liability company. The basis for computing wages for premium payments and compensation benefits for the working member is an assumed average monthly wage of $600 or more but not more than the maximum wage provided in section 23-1041 and is subject to the discretionary approval of the insurance carrier. Any compensation for permanent partial or permanent total disability payable to the working member is computed on the lesser of the assumed monthly wage agreed to by the insurance carrier on the acceptance of the application for coverage or the actual average monthly wage received by the working member at the time of injury.

(s) A working shareholder of a corporation who owns less than fifty percent of the beneficial interest in the corporation.

(t) A working shareholder of a corporation who owns fifty percent or more of the beneficial interest in the corporation may be deemed to be an employee entitled to the benefits provided by this chapter on the written acceptance, by endorsement, of an application for coverage by the working shareholder at the discretion of the insurance carrier for the corporation. The basis for computing wages for premium payments and compensation benefits for the working shareholder is an assumed average monthly wage of $600 or more but not more than the maximum wage provided in
section 23-1041 and is subject to the discretionary approval of the insurance
carrier. Any compensation for permanent partial or permanent total
disability payable to the working shareholder is computed on the lesser of
the assumed monthly wage agreed to by the insurance carrier on the acceptance
of the application for coverage or the actual average monthly wage received
by the working shareholder at the time of injury.
7. "General order" means an order applied generally throughout this
state to all persons under jurisdiction of the commission.
8. "Heart-related or perivascular injury, illness or death" means
myocardial infarction, coronary thrombosis or any other similar sudden,
vigorous or acute process involving the heart or perivascular system, or any
death resulting therefrom, and any weakness, disease or other condition of
the heart or perivascular system, or any death resulting therefrom.
9. "Insurance carrier" means every insurance carrier duly authorized
by the director of the department of insurance and financial institutions
to write workers' compensation or occupational disease compensation
insurance in this state.
10. "Interested party" means the employer, the employee, or if the
employee is deceased, the employee's estate, the surviving spouse or
dependents, the commission, the insurance carrier or their representative.
11. "Mental injury, illness or condition" means any mental,
emotional, psychotic or neurotic injury, illness or condition.
12. "Order" means and includes any rule, direction, requirement,
standard, determination or decision other than an award or a directive by
the commission or an administrative law judge relative to any entitlement
to compensation benefits, or to the amount of compensation benefits, and
any procedural ruling relative to the processing or adjudicating of a
compensation matter.
13. "Personal injury by accident arising out of and in the course of
employment" means any of the following:
(a) Personal injury by accident arising out of and in the course of
employment.
(b) An injury caused by the wilful act of a third person directed
against an employee because of the employee's employment, but does not
include a disease unless resulting from the injury.
(c) An occupational disease that is due to causes and conditions
characteristic of and peculiar to a particular trade, occupation, process
or employment, and not the ordinary diseases to which the general public is
exposed, and subject to section 23-901.01 OR 23-901.09 or, for
heart-related, perivascular or pulmonary cases, section 23-1105.
14. "Professional employer agreement" means a written contract
between a client and a professional employer organization:
(a) In which the professional employer organization expressly agrees
to co-employ all or a majority of the employees providing services for the
client. In determining whether the professional employer organization
employs all or a majority of the employees of a client, any person employed
pursuant to the terms of the professional employer agreement after the
initial placement of client employees on the payroll of the professional
employer organization shall be included.
(b) That is intended to be ongoing rather than temporary in nature.
(c) In which employer responsibilities for worksite employees, including hiring, firing and disciplining, are expressly allocated between the professional employer organization and the client in the agreement.

15. "Professional employer organization" means any person engaged in the business of providing professional employer services. Professional employer organization does not include a temporary help firm or an employment agency.

16. "Professional employer services" means the service of entering into co-employment relationships under this chapter to which all or a majority of the employees providing services to a client or to a division or work unit of a client are covered employees.

17. "SERVE" OR "SERVICE" MEANS EITHER:
(a) MAILING TO THE LAST KNOWN ADDRESS OF THE RECEIVING PARTY.
(b) TRANSMITTING BY OTHER MEANS, INCLUDING ELECTRONIC TRANSMISSION, WITH THE WRITTEN CONSENT OF THE RECEIVING PARTY.

18. "Special order" means an order other than a general order.

19. "Weakness, disease or other condition of the heart or perivascular system" means arteriosclerotic heart disease, cerebral vascular disease, peripheral vascular disease, cardiovascular disease, angina pectoris, congestive heart trouble, coronary insufficiency, ischemia and all other similar weaknesses, diseases and conditions, and also previous episodes or instances of myocardial infarction, coronary thrombosis or any similar sudden, violent or acute process involving the heart or perivascular system.

20. "Workers' compensation" means workmen's compensation as used in article XVIII, section 8, Constitution of Arizona.
EXPLANATION OF BLEND
SECTION 26-303

Laws 2021, Chapters 348, 367 and 405

Laws 2021, Ch. 348, section 2          Effective September 29, 2021
Laws 2021, Ch. 367, section 1          Effective September 29, 2021
Laws 2021, Ch. 405, section 8          Effective September 29, 2021

Explanation

Since these three enactments are compatible, the Laws 2021, Ch. 348, Ch. 367 and Ch. 405 text changes to section 26-303 are blended in the form shown on the following pages.
26-303. Emergency powers of governor; termination; authorization for adjutant general; limitation; extension; report; notices; appeals

A. During a state of war emergency, the governor may:

1. Suspend the provisions of any statute prescribing the procedure for conduct of state business, or the orders or rules of any state agency, if the governor determines and declares PROCLAIMS that strict compliance with the provisions of any such statute, order or rule would in any way prevent, hinder or delay mitigation of the effects of the emergency.

2. Commandeer and utilize USE any property, except for firearms or ammunition or firearms or ammunition components[,] or personnel deemed necessary in carrying out the responsibilities vested in the office of the governor by this chapter as chief executive of the THIS state[,] and thereafter this THIS state shall pay reasonable compensation therefor FOR THE PROPERTY as follows:

   (a) If property is taken for temporary use, the governor, within ten days after the taking, shall determine the amount of compensation to be paid therefor FOR THE PROPERTY. If the property is returned in a damaged condition, the governor, within ten days after its return, shall determine the amount of compensation to be paid for such damage.

   (b) If the governor deems it necessary for the THIS state to take title to property under this section, the governor shall then cause the owner of the property to be notified thereof in writing by registered mail, postage prepaid, and then cause a copy of the notice to be filed with the secretary of state.

   (c) If the owner refuses to accept the amount of compensation fixed by the governor for the property referred to in subdivisions (a) and (b) OF THIS PARAGRAPH, the amount of compensation shall be determined by appropriate proceedings in the superior court in the county where the property was originally taken.

B. During a state of war emergency, the governor shall have complete authority over all agencies of the state government and shall exercise all police power vested in this state by the constitution and laws of this state in order to effectuate the purposes of this chapter.

C. The powers granted TO the governor by this chapter with respect to a state of war emergency shall terminate if the legislature is not in session and the governor, within twenty-four hours after the beginning of such a state of war emergency, has not issued a call for an immediate special session of the legislature for the purpose of legislating on subjects relating to such a state of war emergency.

D. The governor may proclaim a state of emergency[,] which shall take effect immediately in an area affected or likely to be affected if the governor finds that circumstances described in section 26-301, paragraph 15 exist.

E. During a state of emergency:

1. The governor shall have complete authority over all agencies of the state government and the right to exercise, within the area designated, all police power vested in the THIS state by the constitution and laws of this state in order to effectuate the purposes of this chapter.
2. The governor may direct all agencies of the state government to utilize USE and employ state personnel, equipment and facilities for the performance of TO PERFORM any and all activities designed to prevent or alleviate actual and threatened damage due to the emergency. The governor may direct such agencies to provide supplemental services and equipment to political subdivisions to restore any services in order to provide for the health and safety of the citizens of the affected area.

F. EXCEPT AS PROVIDED IN SUBSECTION G OF THIS SECTION, the powers granted to the governor by this chapter with respect to a state of emergency shall terminate when the state of emergency has been terminated by proclamation of the governor or by concurrent resolution of the legislature declaring it at an end.

G. BEGINNING JANUARY 2, 2023, THE GOVERNOR MAY ISSUE AN INITIAL PROCLAMATION WITH RESPECT TO A STATE OF EMERGENCY FOR A PUBLIC HEALTH EMERGENCY AS DESCRIBED IN SECTION 36-787 FOR A PERIOD OF NOT MORE THAN THIRTY DAYS. THE GOVERNOR MAY EXTEND THE STATE OF EMERGENCY FOR NOT MORE THAN ONE HUNDRED TWENTY DAYS, BUT ANY EXTENSION MAY NOT BE FOR A PERIOD OF MORE THAN THIRTY DAYS. THE STATE OF EMERGENCY SHALL TERMINATE AFTER ONE HUNDRED TWENTY DAYS, UNLESS THE STATE OF EMERGENCY IS EXTENDED, IN WHOLE OR IN PART, BY PASSAGE OF A CONCURRENT RESOLUTION OF THE LEGISLATURE. THE LEGISLATURE MAY EXTEND THE STATE OF EMERGENCY AS MANY TIMES AS NECESSARY BY CONCURRENT RESOLUTION, BUT ANY EXTENSION MAY NOT BE FOR A PERIOD OF MORE THAN THIRTY DAYS. IF A STATE OF EMERGENCY FOR A PUBLIC HEALTH EMERGENCY IS NOT EXTENDED PURSUANT TO THIS SUBSECTION, THE GOVERNOR MAY NOT PROCLAIM A NEW STATE OF EMERGENCY BASED ON THE SAME CONDITIONS WITHOUT THE PASSAGE OF A CONCURRENT RESOLUTION BY THE LEGISLATURE CONSENTING TO THE NEW STATE OF EMERGENCY.


I. No provision of This chapter may DOES NOT limit, modify or abridge the powers vested in the governor under the constitution or statutes of this state.

J. If authorized by the governor, the adjutant general has the powers prescribed in this subsection. If, in the judgment of the adjutant general, circumstances described in section 26-301, paragraph 15 exist, the adjutant general may:

1. Exercise those powers pursuant to statute and gubernatorial authorization following the proclamation of a state of emergency under subsection D of this section.
2. Incur obligations of one hundred thousand dollars $100,000 or less for each emergency or contingency payable pursuant to section 35-192 as though a state of emergency had been proclaimed under subsection D of this section.

K. The powers exercised by the adjutant general pursuant to subsection H–J of this section expire seventy-two hours after the adjutant general makes a determination under subsection H of this section.

L. Pursuant to the second amendment of the United States Constitution and article II, section 26, Constitution of Arizona, and notwithstanding any other law, the emergency powers of the governor, the adjutant general or any other official or person shall DO NOT BE CONSTRUED TO ALLOW THE IMPOSITION OF ADDITIONAL RESTRICTIONS ON THE LAWFUL POSSESSION, TRANSFER, SALE, TRANSPORTATION, CARRYING, STORAGE, DISPLAY OR USE OF FIREARMS OR AMMUNITION OR FIREARMS OR AMMUNITION COMPONENTS. A STORE THAT SELLS FIREARMS OR AMMUNITION, OR FIREARMS OR AMMUNITION COMPONENTS, IS AN ESSENTIAL BUSINESS AND IS PROTECTED FROM A QUALIFIED CIVIL LIABILITY ACTION PURSUANT TO SECTION 12-721.

M. Nothing in this section shall be construed to DO NOT PROHIBIT THE GOVERNOR, THE ADJUTANT GENERAL OR OTHER OFFICIALS RESPONDING TO AN EMERGENCY FROM ORDERING THE MOVEMENT OF STORES OF AMMUNITION OUT OF THE WAY OF DANGEROUS CONDITIONS.

2. ALLOW A STATE AGENCY OR A CITY, TOWN OR COUNTY TO PERMANENTLY REVOKE ANY LICENSE HELD BY A BUSINESS OR USED TO OPERATE A BUSINESS FOR NOT COMPLYING WITH AN ORDER ISSUED BY THE GOVERNOR WITH RESPECT TO A STATE OF EMERGENCY PROCLAIMED BY THE GOVERNOR PURSUANT TO SECTION 36-787, SUBSECTION A UNLESS THE STATE AGENCY OR THE CITY, TOWN OR COUNTY CAN DEMONSTRATE BY CLEAR AND CONVINCING EVIDENCE THAT THE BUSINESS CAUSED THE TRANSMISSION OF THE DISEASE THAT IS THE SUBJECT OF THE ORDER DUE TO THE BUSINESS'S WILFUL MISCONDUCT OR GROSS NEGLIGENCE.

N. BEFORE A STATE AGENCY, CITY, TOWN OR COUNTY SUSPENDS OR PERMANENTLY REVOKES, PURSUANT TO SUBSECTION M OF THIS SECTION, A LICENSE HELD BY A BUSINESS OR USED TO OPERATE A BUSINESS, THE STATE AGENCY, CITY, TOWN OR COUNTY SHALL PROVIDE THE BUSINESS WITH BOTH OF THE FOLLOWING:

1. A WRITTEN NOTICE OF NONCOMPLIANCE DELIVERED BY PERSONAL SERVICE OR CERTIFIED MAIL.

2. A WRITTEN NOTICE OF INTENT TO SUSPEND OR PERMANENTLY REVOKE THE LICENSE AT LEAST THIRTY DAYS AFTER THE DATE OF THE NOTICE OF NONCOMPLIANCE PROVIDED PURSUANT TO PARAGRAPH 1 OF THIS SUBSECTION. THE STATE AGENCY, CITY, TOWN OR COUNTY SHALL PRESENT ANY NEW EVIDENCE OF GROUNDS FOR SUSPENSION OR REVOCATION IN THE WRITTEN NOTICE REQUIRED BY THIS PARAGRAPH. A BUSINESS THAT RECEIVES A NOTICE PURSUANT TO THIS PARAGRAPH AND DISPUTES THE CLAIM SHALL RESPOND TO THE STATE AGENCY, CITY, TOWN OR COUNTY WITHIN TWENTY DAYS AFTER RECEIVING THE NOTICE.

O. ANY DISPUTE RELATING TO THE SUSPENSION OR PERMANENT REVOCATION OF A LICENSE HELD BY A BUSINESS OR USED TO OPERATE A BUSINESS SHALL BE RESOLVED BY A COURT OF COMPETENT JURISDICTION IN THIS STATE. A STATE AGENCY, CITY, TOWN OR COUNTY MAY NOT SUSPEND OR PERMANENTLY REVOKE A LICENSE HELD BY A BUSINESS OR USED TO OPERATE A BUSINESS UNTIL THE BUSINESS HAS RECEIVED BOTH NOTICES PRESCRIBED IN SUBSECTION N OF THIS SECTION AND ALL APPEALS HAVE BEEN EXHAUSTED. THE COURT MAY AWARDE REASONABLE ATTORNEY FEES AND DAMAGES TO A BUSINESS IN AN ACTION RELATING TO THE SUSPENSION OR PERMANENT REVOCATION OF A LICENSE HELD BY A BUSINESS OR USED TO OPERATE A BUSINESS.
EXPLANATION OF BLEND
SECTION 28-101

Laws 2021, Chapters 117, 133 and 244

Laws 2021, Ch. 117, section 1  Effective September 29, 2021
Laws 2021, Ch. 133, section 1  Effective September 29, 2021
Laws 2021, Ch. 244, section 1  Effective September 29, 2021

Explanation

Since these three enactments are compatible, the Laws 2021, Ch. 117, Ch. 133 and Ch. 244 text changes to section 28-101 are blended in the form shown on the following pages.
28-101. Definitions
In this title, unless the context otherwise requires:
1. "Alcohol" means any substance containing any form of alcohol, including ethanol, methanol, propynol and isopropynol.
2. "Alcohol concentration" if expressed as a percentage means either:
   (a) The number of grams of alcohol per one hundred milliliters of blood.
   (b) The number of grams of alcohol per two hundred ten liters of breath.
3. "All-terrain vehicle" means either of the following:
   (a) A motor vehicle that satisfies all of the following:
       (i) Is designed primarily for recreational nonhighway all-terrain travel.
       (ii) Is fifty or fewer inches in width.
       (iii) Has an unladen weight of one thousand two hundred pounds or less.
       (iv) Travels on three or more nonhighway tires.
       (v) Is operated on a public highway.
       (b) A recreational off-highway vehicle that satisfies all of the following:
           (i) Is designed primarily for recreational nonhighway all-terrain travel.
           (ii) Is eighty or fewer inches in width.
           (iii) Has an unladen weight of two thousand five hundred pounds or less.
           (iv) Travels on four or more nonhighway tires.
           (v) Has a steering wheel for steering control.
           (vi) Has a rollover protective structure.
           (vii) Has an occupant retention system.
4. "Authorized emergency vehicle" means any of the following:
   (a) A fire department vehicle.
   (b) A police vehicle.
   (c) An ambulance or emergency vehicle of a municipal department or public service corporation that is designated or authorized by the department or a local authority.
   (d) Any other ambulance, fire truck or rescue vehicle that is authorized by the department in its sole discretion and that meets liability insurance requirements prescribed by the department.
5. "Autocycle" means a three-wheeled motorcycle on which the driver and passengers ride in a fully or partially enclosed seating area that is equipped with a roll cage, safety belts for each occupant and antilock
brakes and that is designed to be controlled with a steering wheel and pedals.

6. "AUTOMATED DRIVING SYSTEM" MEANS THE HARDWARE AND SOFTWARE THAT ARE COLLECTIVELY CAPABLE OF PERFORMING THE ENTIRE DYNAMIC DRIVING TASK ON A SUSTAINED BASIS, REGARDLESS OF WHETHER IT IS LIMITED TO A SPECIFIC OPERATIONAL DESIGN DOMAIN.

7. "Automotive recycler" means a person that is engaged in the business of buying or acquiring a motor vehicle solely for the purpose of dismantling, selling or otherwise disposing of the parts or accessories and that removes parts for resale from six or more vehicles in a calendar year.

8. "AUTONOMOUS VEHICLE" MEANS A MOTOR VEHICLE THAT IS EQUIPPED WITH AN AUTOMATED DRIVING SYSTEM.

9. "Aviation fuel" means all flammable liquids composed of a mixture of selected hydrocarbons expressly manufactured and blended for the purpose of effectively and efficiently operating an internal combustion engine for use in an aircraft but does not include fuel for jet or turbine powered aircraft.

10. "Bicycle" means a device, including a racing wheelchair, that is propelled by human power and on which a person may ride and that has either:

   (a) Two tandem wheels, either of which is more than sixteen inches in diameter.

   (b) Three wheels in contact with the ground, any of which is more than sixteen inches in diameter.

11. "Board" means the transportation board.

12. "Bus" means a motor vehicle designed for carrying sixteen or more passengers, including the driver.

13. "Business district" means the territory contiguous to and including a highway if there are buildings in use for business or industrial purposes within any six hundred feet along the highway, including hotels, banks or office buildings, railroad stations and public buildings that occupy at least three hundred feet of frontage on one side or three hundred feet collectively on both sides of the highway.

14. "Certificate of ownership" means a paper or an electronic record that is issued in another state or a foreign jurisdiction and that indicates ownership of a vehicle.

15. "Certificate of title" means a paper document or an electronic record that is issued by the department and that indicates ownership of a vehicle.

16. "Combination of vehicles" means a truck or truck tractor and semitrailer and any trailer that it tows but does not include a forklift designed for the purpose of loading or unloading the truck, trailer or semitrailer.

17. "Controlled substance" means a substance so classified under section 102(6) of the controlled substances act (21 United States Code section 802(6)) and includes all substances listed in schedules I through V of 21 Code of Federal Regulations part 1308.

18. "Conviction" means:
(a) An unvacated adjudication of guilt or a determination that a person violated or failed to comply with the law in a court of original jurisdiction or by an authorized administrative tribunal.

(b) An unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court.

(c) A plea of guilty or no contest accepted by the court.

(d) The payment of a fine or court costs.

19. "County highway" means a public road that is constructed and maintained by a county.

20. "Dealer" means a person who is engaged in the business of buying, selling or exchanging motor vehicles, trailers or semitrailers and who has an established place of business and has paid fees pursuant to section 28-4302.

21. "Department" means the department of transportation acting directly or through its duly authorized officers and agents.

22. "Digital network or software application" has the same meaning prescribed in section 28-9551.

23. "Director" means the director of the department of transportation.

24. "Drive" means to operate or be in actual physical control of a motor vehicle.

25. "Driver" means a person who drives or is in actual physical control of a vehicle.

26. "Driver license" means a license that is issued by a state to an individual and that authorizes the individual to drive a motor vehicle.

27. "DYNAMIC DRIVING TASK":

(a) MEANS ALL OF THE REAL-TIME OPERATIONAL AND TACTICAL FUNCTIONS REQUIRED TO OPERATE A VEHICLE IN ON-ROAD TRAFFIC.

(b) INCLUDES:

(i) LATERAL VEHICLE MOTION CONTROL BY STEERING.
(ii) LONGITUDINAL MOTION CONTROL BY ACCELERATION AND DECELERATION.
(iii) MONITORING THE DRIVING ENVIRONMENT BY OBJECT AND EVENT DETECTION, RECOGNITION, CLASSIFICATION AND RESPONSE PREPARATION.
(iv) OBJECT AND EVENT RESPONSE EXECUTION.
(v) MANEUVER PLANNING.
(vi) ENHANCING CONSPICUITY BY LIGHTING, SIGNALING AND GESTURING.

(c) DOES NOT INCLUDE STRATEGIC FUNCTIONS SUCH AS TRIP SCHEDULING AND SELECTION OF DESTINATIONS AND WAYPOINTS.

28. "Electric bicycle" means a bicycle or tricycle that is equipped with fully operable pedals and an electric motor of less than seven hundred fifty watts and that meets the requirements of one of the following classes:

(a) "Class 1 electric bicycle" means a bicycle or tricycle that is equipped with an electric motor that provides assistance only when the rider is pedaling and that ceases to provide assistance when the bicycle or tricycle reaches the speed of twenty miles per hour.

(b) "Class 2 electric bicycle" means a bicycle or tricycle that is equipped with an electric motor that may be used exclusively to propel the bicycle or tricycle and that is not capable of providing assistance when the bicycle or tricycle reaches the speed of twenty miles per hour.
(c) "Class 3 electric bicycle" means a bicycle or tricycle that is equipped with an electric motor that provides assistance only when the rider is pedaling and that ceases to provide assistance when the bicycle or tricycle reaches the speed of twenty-eight miles per hour.

26. 29. "Electric miniature scooter" means a device that:
(a) Weighs less than thirty pounds.
(b) Has two or three wheels.
(c) Has handlebars.
(d) Has a floorboard on which a person may stand while riding.
(e) Is powered by an electric motor or human power, or both.
(f) Has a maximum speed that does not exceed ten miles per hour, with or without human propulsion, on a paved level surface.

27. 30. "Electric personal assistive mobility device" means a self-balancing device with one wheel or two nontandem wheels and an electric propulsion system that limits the maximum speed of the device to fifteen miles per hour or less and that is designed to transport only one person.

28. 31. "Electric standup scooter":
(a) Means a device that:
   (i) Weighs less than seventy-five pounds.
   (ii) Has two or three wheels.
   (iii) Has handlebars.
   (iv) Has a floorboard on which a person may stand while riding.
   (v) Is powered by an electric motor or human power, or both.
   (vi) Has a maximum speed that does not exceed twenty miles per hour, with or without human propulsion, on a paved level surface.
(b) Does not include an electric miniature scooter.

29. 32. "Evidence" includes both of the following:
(a) A display on a wireless communication device of a department-generated driver license, nonoperating identification license, vehicle registration card or other official record of the department that is presented to a law enforcement officer or in a court or an administrative proceeding.
(b) An electronic or digital license plate authorized pursuant to section 28-364.

30. 33. "Farm" means any lands primarily used for agriculture production.

31. 34. "Farm tractor" means a motor vehicle designed and used primarily as a farm implement for drawing implements of husbandry.

32. 35. "Foreign vehicle" means a motor vehicle, trailer or semitrailer that is brought into this state other than in the ordinary course of business by or through a manufacturer or dealer and that has not been registered in this state.

36. "FULLY AUTONOMOUS VEHICLE" MEANS AN AUTONOMOUS VEHICLE THAT IS EQUIPPED WITH AN AUTOMATED DRIVING SYSTEM DESIGNED TO FUNCTION AS A LEVEL FOUR OR FIVE SYSTEM UNDER SAE J3016 AND THAT MAY BE DESIGNED TO FUNCTION EITHER:
(a) SOLELY BY USE OF THE AUTOMATED DRIVING SYSTEM.
(b) BY A HUMAN DRIVER WHEN THE AUTOMATED DRIVING SYSTEM IS NOT ENGAGED.
37. "Golf cart" means a motor vehicle that has not less than three wheels in contact with the ground, that has an unladen weight of less than one thousand eight hundred pounds, that is designed to be and is operated at not more than twenty-five miles per hour and that is designed to carry not more than four persons including the driver.

38. "Hazardous material" means a material, and its mixtures or solutions, that the United States Department of Transportation determines under 49 Code of Federal Regulations, or any quantity of a material listed as a select agent or toxin under 42 Code of Federal Regulations part 73 that is, capable of posing an unreasonable risk to health, safety and property if transported in commerce and that is required to be placarded or marked as required by the department's safety rules prescribed pursuant to chapter 14 of this title.

39. "Human Driver" means a natural person in the vehicle who performs in real time all or part of the dynamic driving task or achieves a minimal risk condition for the vehicle.

40. "Implement of husbandry" means a vehicle that is designed primarily for agricultural purposes and that is used exclusively in the conduct of agricultural operations, including an implement or vehicle whether self-propelled or otherwise that meets both of the following conditions:

(a) Is used solely for agricultural purposes including the preparation or harvesting of cotton, alfalfa, grains and other farm crops.
(b) Is only incidentally operated or moved on a highway whether as a trailer or self-propelled unit. For the purposes of this subdivision, "incidentally operated or moved on a highway" means travel between a farm and another part of the same farm, from one farm to another farm or between a farm and a place of repair, supply or storage.

41. "Limousine" means a motor vehicle providing prearranged ground transportation service for an individual passenger, or a group of passengers, that is arranged in advance or is operated on a regular route or between specified points and includes ground transportation under a contract or agreement for services that includes a fixed rate or time and is provided in a motor vehicle with a seating capacity not exceeding fifteen passengers including the driver.

42. "Livery vehicle" means a motor vehicle that:
   (a) Has a seating capacity not exceeding fifteen passengers including the driver.
   (b) Provides passenger services for a fare determined by a flat rate or flat hourly rate between geographic zones or within a geographic area.
   (c) Is available for hire on an exclusive or shared ride basis.
   (d) May do any of the following:
   (i) Operate on a regular route or between specified places.
   (ii) Offer prearranged ground transportation service as defined in section 28-141.
   (iii) Offer on demand ground transportation service pursuant to a contract with a public airport, licensed business entity or organization.

43. "Local authority" means any county, municipal or other local board or body exercising jurisdiction over highways under the constitution and laws of this state.
44. "Manufacturer" means a person engaged in the business of manufacturing motor vehicles, trailers or semitrailers.

46. "MINIMAL RISK CONDITION":
(a) MEANS A CONDITION TO WHICH A HUMAN DRIVER OR AN AUTOMATED DRIVING SYSTEM MAY BRING A VEHICLE IN ORDER TO REDUCE THE RISK OF A CRASH WHEN A GIVEN TRIP CANNOT OR SHOULD NOT BE COMPLETED.
(b) INCLUDES BRINGING THE VEHICLE TO A COMPLETE STOP.

46. "Moped" means a bicycle, not including an electric bicycle, an electric miniature scooter or an electric standup scooter, that is equipped with a helper motor if the vehicle has a maximum piston displacement of fifty cubic centimeters or less, a brake horsepower of one and one-half or less and a maximum speed of twenty-five miles per hour or less on a flat surface with less than a one percent grade.

47. "Motorcycle" means a motor vehicle that has a seat or saddle for the use of the rider and that is designed to travel on not more than three wheels in contact with the ground but excludes a tractor, an electric bicycle, an electric miniature scooter, an electric standup scooter and a moped.

48. "Motor driven cycle" means a motorcycle, including every motor scooter, with a motor that produces not more than five horsepower but does not include an electric bicycle, an electric miniature scooter or an electric standup scooter.

49. "Motorized quadricycle" means a self-propelled motor vehicle to which all of the following apply:
(a) The vehicle is self-propelled by an emission-free electric motor and may include pedals operated by the passengers.
(b) The vehicle has at least four wheels in contact with the ground.
(c) The vehicle seats at least eight passengers, including the driver.
(d) The vehicle is operable on a flat surface using solely the electric motor without assistance from the pedals or passengers.
(e) The vehicle is a commercial motor vehicle as defined in section 28-5201.
(f) The vehicle is a limousine operating under a vehicle for hire company permit issued pursuant to section 28-9503.
(g) The vehicle is manufactured by a motor vehicle manufacturer that is licensed pursuant to chapter 10 of this title.
(h) The vehicle complies with the definition and standards for low-speed vehicles set forth in federal motor vehicle safety standard 500 and 49 Code of Federal Regulations sections 571.3(b) and 571.500, respectively.

50. "Motor vehicle":
(a) Means either:
(i) A self-propelled vehicle.
(ii) For the purposes of the laws relating to the imposition of a tax on motor vehicle fuel, a vehicle that is operated on the highways of this state and that is propelled by the use of motor vehicle fuel.
(b) Does not include a scrap vehicle, a personal delivery vehicle, a personal mobile cargo carrying device, a motorized wheelchair, an electric personal assistive mobility device, an electric bicycle, an electric
miniature scooter, an electric standup scooter or a motorized skateboard. For the purposes of this subdivision:

(1) "Motorized skateboard" means a self-propelled device that does not have handlebars and that has a motor, a deck on which a person may ride and at least two tandem wheels in contact with the ground.

(2) "Motorized wheelchair" means a self-propelled wheelchair that is used by a person for mobility.

51. "Motor vehicle fuel" includes all products that are commonly or commercially known or sold as gasoline, including casinghead gasoline, natural gasoline and all flammable liquids, and that are composed of a mixture of selected hydrocarbons expressly manufactured and blended for the purpose of effectively and efficiently operating internal combustion engines. Motor vehicle fuel does not include inflammable liquids that are specifically manufactured for racing motor vehicles and that are distributed for and used by racing motor vehicles at a racetrack, use fuel as defined in section 28-5601, aviation fuel, fuel for jet or turbine powered aircraft or the mixture created at the interface of two different substances being transported through a pipeline, commonly known as transmix.

52. "NEIGHBORHOOD ELECTRIC SHUTTLE":
   (a) MEANS A SELF-PROPELLED ELECTRICALLY POWERED MOTOR VEHICLE TO WHICH ALL OF THE FOLLOWING APPLY:
   (i) THE VEHICLE IS EMISSION FREE.
   (ii) THE VEHICLE HAS AT LEAST FOUR WHEELS IN CONTACT WITH THE GROUND.
   (iii) THE VEHICLE IS CAPABLE OF TRANSPORTING AT LEAST EIGHT PASSENGERS, INCLUDING THE DRIVER.
   (iv) THE VEHICLE IS A COMMERCIAL MOTOR VEHICLE AS DEFINED IN SECTION 28-5201.
   (v) THE VEHICLE IS A VEHICLE FOR HIRE AS DEFINED IN SECTION 28-9501 AND OPERATES UNDER A VEHICLE FOR HIRE COMPANY PERMIT ISSUED PURSUANT TO SECTION 28-9503.
   (vi) THE VEHICLE COMPLIES WITH THE DEFINITION AND STANDARDS FOR LOW-SPEED VEHICLES SET FORTH IN FEDERAL MOTOR VEHICLE SAFETY STANDARD 500 AND 49 CODE OF FEDERAL REGULATIONS SECTIONS 571.3(b) AND 571.500, RESPECTIVELY.
   (b) INCLUDES A VEHICLE THAT MEETS THE STANDARDS PRESCRIBED IN SUBDIVISION (a) OF THIS PARAGRAPH AND THAT HAS BEEN MODIFIED AFTER MARKET AND NOT BY THE MANUFACTURER TO TRANSPORT UP TO FIFTEEN PASSENGERS, INCLUDING THE DRIVER.

53. "Neighborhood electric vehicle" means a self-propelled electrically powered motor vehicle to which all of the following apply:
   (a) The vehicle is emission free.
   (b) The vehicle has at least four wheels in contact with the ground.
   (c) The vehicle complies with the definition and standards for low-speed vehicles set forth in federal motor vehicle safety standard 500 and 49 Code of Federal Regulations sections 571.3(b) and 571.500, respectively.

54. "Nonresident" means a person who is not a resident of this state as defined in section 28-2001.

55. "Off-road recreational motor vehicle" means a motor vehicle that is designed primarily for recreational nonhighway all-terrain travel
and that is not operated on a public highway. Off-road recreational motor vehicle does not mean a motor vehicle used for construction, building trade, mining or agricultural purposes.

56. "OPERATIONAL DESIGN DOMAIN":
(a) MEANS OPERATING CONDITIONS UNDER WHICH A GIVEN AUTOMATED DRIVING SYSTEM IS SPECIFICALLY DESIGNED TO FUNCTION.
(b) INCLUDES ROADWAY TYPES, SPEED RANGE, ENVIRONMENTAL CONDITIONS, SUCH AS WEATHER OR TIME OF DAY, AND OTHER DOMAIN CONSTRAINTS.

49. 57. "Operator" means a person who drives a motor vehicle on a highway, who is in actual physical control of a motor vehicle on a highway or who is exercising control over or steering a vehicle being towed by a motor vehicle.

50. 58. "Owner" means:
(a) A person who holds the legal title of a vehicle.
(b) If a vehicle is the subject of an agreement for the conditional sale or lease with the right of purchase on performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, the conditional vendee or lessee.
(c) If a mortgagor of a vehicle is entitled to possession of the vehicle, the mortgagor.

51. 59. "Pedestrian" means any person afoot. A person who uses an electric personal assistive mobility device or a manual or motorized wheelchair is considered a pedestrian unless the manual wheelchair qualifies as a bicycle. For the purposes of this paragraph, "motorized wheelchair" means a self-propelled wheelchair that is used by a person for mobility.

52. 60. "Personal delivery device":
(a) Means a device that is both of the following:
(i) Manufactured for transporting cargo and goods in an area described in section 28-1225.
(ii) Equipped with automated driving technology, including software and hardware, that enables the operation of the device with the remote support and supervision of a human.
(b) Does not include a personal mobile cargo carrying device.

53. 61. "Personal mobile cargo carrying device" means an electronically powered device that:
(a) Is operated primarily on sidewalks and within crosswalks and that is designed to transport property.
(b) Weighs less than eighty pounds, excluding cargo.
(c) Operates at a maximum speed of twelve miles per hour.
(d) Is equipped with technology to transport personal property with the active monitoring of a property owner and that is primarily designed to remain within twenty-five feet of the property owner.
(e) Is equipped with a braking system that when active or engaged enables the personal mobile cargo carrying device to come to a controlled stop.

54. 62. "Power sweeper" means an implement, with or without motive power, that is only incidentally operated or moved on a street or highway and that is designed for the removal of debris, dirt, gravel, litter or sand whether by broom, vacuum or regenerative air system from asphaltic concrete
or cement concrete surfaces, including parking lots, highways, streets and warehouses, and a vehicle on which the implement is permanently mounted.

63. "Public transit" means the transportation of passengers on scheduled routes by means of a conveyance on an individual passenger fare-paying basis excluding transportation by a sightseeing bus, school bus or taxi or a vehicle not operated on a scheduled route basis.

64. "Reconstructed vehicle" means a vehicle that has been assembled or constructed largely by means of essential parts, new or used, derived from vehicles or makes of vehicles of various names, models and types or that, if originally otherwise constructed, has been materially altered by the removal of essential parts or by the addition or substitution of essential parts, new or used, derived from other vehicles or makes of vehicles. For the purposes of this paragraph, "essential parts" means integral and body parts, the removal, alteration or substitution of which will tend to conceal the identity or substantially alter the appearance of the vehicle.

65. "Residence district" means the territory contiguous to and including a highway not comprising a business district if the property on the highway for a distance of three hundred feet or more is in the main improved with residences or residences and buildings in use for business.

66. "Right-of-way" when used within the context of the regulation of the movement of traffic on a highway means the privilege of the immediate use of the highway. Right-of-way when used within the context of the real property on which transportation facilities and appurtenances to the facilities are constructed or maintained means the lands or interest in lands within the right-of-way boundaries.

67. "SAE J3016" MEANS SURFACE TRANSPORTATION RECOMMENDED PRACTICE J3016 TAXONOMY AND DEFINITIONS FOR TERMS RELATED TO DRIVING AUTOMATION SYSTEMS FOR ON-ROAD MOTOR VEHICLES PUBLISHED BY SAE INTERNATIONAL IN JUNE 2018.

68. "School bus" means a motor vehicle that is designed for carrying more than ten passengers and that is either:
   (a) Owned by any public or governmental agency or other institution and operated for the transportation of children to or from home or school on a regularly scheduled basis.
   (b) Privately owned and operated for compensation for the transportation of children to or from home or school on a regularly scheduled basis.

69. "Scrap metal dealer" has the same meaning prescribed in section 44-1641.

70. "Scrap vehicle" has the same meaning prescribed in section 44-1641.

71. "Semitrailer" means a vehicle that is with or without motive power, other than a pole trailer or single-axle tow dolly, that is designed for carrying persons or property and for being drawn by a motor vehicle and that is constructed so that some part of its weight and that of its load rests on or is carried by another vehicle. For the purposes of this paragraph, "pole trailer" has the same meaning prescribed in section 28-601.

72. "Single-axle tow dolly" means a nonvehicle device that is drawn by a motor vehicle, that is designed and used exclusively to transport
another motor vehicle and on which the front or rear wheels of the drawn motor vehicle are mounted on the tow dolly while the other wheels of the drawn motor vehicle remain in contact with the ground.

64. 73. "State" means a state of the United States and the District of Columbia.

65. 74. "State highway" means a state route or portion of a state route that is accepted and designated by the board as a state highway and that is maintained by the state.

66. 75. "State route" means a right-of-way whether actually used as a highway or not that is designated by the board as a location for the construction of a state highway.

67. 76. "Street" or "highway" means the entire width between the boundary lines of every way if a part of the way is open to the use of the public for purposes of vehicular travel.

68. 77. "Taxi" means a motor vehicle that has a seating capacity not exceeding fifteen passengers, including the driver, that provides passenger services and that:
   (a) Does not primarily operate on a regular route or between specified places.
   (b) Offers local transportation for a fare determined on the basis of the distance traveled or prearranged ground transportation service as defined in section 28-141 for a predetermined fare.

69. 78. "Title transfer form" means a paper or an electronic form that is prescribed by the department for the purpose of transferring a certificate of title from one owner to another owner.

70. 79. "Traffic survival school" means a school that IS LICENSED PURSUANT TO CHAPTER 8, ARTICLE 7.1 OF THIS TITLE AND THAT offers educational sessions to drivers who are required to attend and successfully complete educational sessions pursuant to this title that are designed to improve the safety and habits of drivers and that are approved by the department.

71. 80. "Trailer" means a vehicle that is with or without motive power, other than a pole trailer or single-axle tow dolly, that is designed for carrying persons or property and for being drawn by a motor vehicle and that is constructed so that no part of its weight rests on the towing vehicle. A semitrailer equipped with an auxiliary front axle commonly known as a dolly is deemed to be a trailer. For the purposes of this paragraph, "pole trailer" has the same meaning prescribed in section 28-601.

72. 81. "Transportation network company" has the same meaning prescribed in section 28-9551.

73. 82. "Transportation network company vehicle" has the same meaning prescribed in section 28-9551.

74. 83. "Transportation network service" has the same meaning prescribed in section 28-9551.

75. 84. "Truck" means a motor vehicle designed or used primarily for the carrying of property other than the effects of the driver or passengers and includes a motor vehicle to which has been added a box, a platform or other equipment for such carrying.

76. 85. "Truck tractor" means a motor vehicle that is designed and used primarily for drawing other vehicles and that is not constructed to carry a load other than a part of the weight of the vehicle and load drawn.
86. "Vehicle":
(a) Means a device in, on or by which a person or property is or may be transported or drawn on a public highway.
(b) Does not include:
   (i) Electric bicycles, electric miniature scooters, electric standup scooters and devices moved by human power.
   (ii) Devices used exclusively on stationary rails or tracks.
   (iii) Personal delivery devices.
   (iv) Scrap vehicles.
   (v) Personal mobile cargo carrying devices.
87. "Vehicle transporter" means either:
(a) A truck tractor capable of carrying a load and drawing a semitrailer.
(b) A truck tractor with a stinger-steered fifth wheel capable of carrying a load and drawing a semitrailer or a truck tractor with a dolly mounted fifth wheel that is securely fastened to the truck tractor at two or more points and that is capable of carrying a load and drawing a semitrailer.
EXPLANATION OF BLEND
SECTION 28-661

Laws 2021, Chapters 117 and 304

Laws 2021, Ch. 117, section 2 Effective September 29, 2021
Laws 2021, Ch. 304, section 1 Effective September 29, 2021

Explanation

Since these two enactments are compatible, the Laws 2021, Ch. 117 and Ch. 304 text changes to section 28-661 are blended in the form shown on the following pages.
28-661. **Accidents involving death or physical injuries; fully autonomous vehicles operating without a human driver; failure to stop; violation; classification; driver license revocation; restricted privilege to drive; alcohol or other drug screening**

A. The driver of a vehicle involved in an accident ON PUBLIC OR PRIVATE PROPERTY resulting in injury to or death of a person shall:

1. Immediately stop the vehicle at the scene of the accident or as close to the accident scene as possible but shall immediately return to the accident scene.

2. Remain at the scene of the accident until the driver has fulfilled the requirements of section 28-663.

B. IF THE VEHICLE DESCRIBED IN SUBSECTION A OF THIS SECTION IS A FULLY AUTONOMOUS VEHICLE OPERATING WITHOUT A HUMAN DRIVER, THE REQUIREMENTS OF THIS SECTION ARE SATISFIED IF THE FULLY AUTONOMOUS VEHICLE STOPS AT THE SCENE OF THE ACCIDENT OR AS CLOSE TO THE ACCIDENT SCENE AS POSSIBLE AND REMAINS STOPPED AT THAT LOCATION UNTIL THE REQUIREMENTS OF SECTION 28-663 HAVE BEEN SATISFIED.

C. A driver who is involved in an accident resulting in death or serious physical injury as defined in section 13-105 and who fails to stop or to comply with the requirements of section 28-663 is guilty of a class 3 felony, except that if a driver caused the accident the driver is guilty of a class 2 felony.

D. A driver who is involved in an accident resulting in an injury other than death or serious physical injury as defined in section 13-105 and who fails to stop or to comply with the requirements of section 28-663 is guilty of a class 5 felony.

E. The sentence imposed on a person for a conviction under this section shall run consecutively to any sentence imposed on the person for other convictions on any other charge related to the accident.

F. The department shall revoke the license or permit to drive and any nonresident operating privilege of a person convicted pursuant to subsection C of this section as follows:

1. For an accident resulting in serious physical injury, five years, not including any time that the person is incarcerated.

2. For an accident resulting in death, ten years, not including any time that the person is incarcerated.

F. Five or more years after the revocation period has begun pursuant to subsection F, paragraph 2 of this section, not including any time that the person is incarcerated, a person may apply to the department for a restricted privilege to drive. The department may issue a restricted
privilege to drive as described in section 28-144 if the department finds both of the following:

1. The person is not convicted of any offense involving the operation of a motor vehicle while the person's driving privilege is revoked.

2. The person has paid full restitution as ordered by the court.

H. The department shall revoke the license or permit to drive and any nonresident operating privilege of a person convicted pursuant to subsection D of this section for three years.

I. If the court finds by a preponderance of the evidence that the person's use of intoxicating liquor, any drug listed in section 13-3401, a vapor releasing substance containing a toxic substance or any combination of liquor, drugs or vapor releasing substances was a contributing factor to the accident, the court shall order the person to complete alcohol or other drug screening.
EXPLANATION OF BLEND
SECTION 28-662

Laws 2021, Chapters 117 and 304

Laws 2021, Ch. 117, section 3  Effective September 29, 2021

Laws 2021, Ch. 304, section 2  Effective September 29, 2021

Explanation

Since these two enactments are compatible, the Laws 2021, Ch. 117 and Ch. 304 text changes to section 28-662 are blended in the form shown on the following page.
28-662. Accidents involving damage to vehicle; failure to stop; fully autonomous vehicle operating without a human driver; violation; classification; driver license suspension; alcohol or other drug screening

A. The driver of a vehicle involved in an accident ON PUBLIC OR PRIVATE PROPERTY resulting only in damage to a vehicle that is driven or attended by a person shall:

1. Immediately stop the vehicle at the scene of the accident or as close to the accident scene as possible but shall immediately return to the accident scene.

2. Remain at the scene of the accident until the driver has fulfilled the requirements of section 28-663.

3. Make the stop without obstructing traffic more than is necessary.

B. IF THE FIRST VEHICLE DESCRIBED IN SUBSECTION A OF THIS SECTION IS A FULLY AUTONOMOUS VEHICLE OPERATING WITHOUT A HUMAN DRIVER, THE REQUIREMENTS OF THIS SECTION ARE SATISFIED IF THE FULLY AUTONOMOUS VEHICLE:

1. IMMEDIATELY STOPS AT THE SCENE OF THE ACCIDENT OR AS CLOSE TO THE ACCIDENT SCENE AS POSSIBLE.

2. REMAINS STOPPED AT OR AS CLOSE AS POSSIBLE TO THE SCENE UNTIL THE REQUIREMENTS OF SECTION 28-663 HAVE BEEN SATISFIED.

3. MAKES THE STOP WITHOUT OBSTRUCTING TRAFFIC MORE THAN NECESSARY.

C. A person failing to stop or comply with this section is guilty of a class 2−1 misdemeanor.

D. A court may order the department to suspend the license or permit to drive and any nonresident operating privilege of a person convicted under this section for one year. If reasonable suspicion exists to believe that the person's use of intoxicating liquor, any drug listed in section 13-3401, a vapor releasing substance containing a toxic substance or any combination of liquor, drugs or vapor releasing substances was a contributing factor to the accident, the department may require the person to complete alcohol or other drug screening as a condition of license reinstatement.
EXPLANATION OF BLEND
SECTION 28-663

Laws 2021, Chapters 117 and 304

Laws 2021, Ch. 117, section 4  Effective September 29, 2021
Laws 2021, Ch. 304, section 3  Effective September 29, 2021

Explanation

Since these two enactments are compatible, the Laws 2021, Ch. 117 and Ch. 304 text changes to section 28-663 are blended in the form shown on the following page.
28-663. **Duty to give information and assistance: fully autonomous vehicles operating without a human driver; violation; classification; alcohol or other drug screening**

A. The driver of a vehicle involved in an accident on public or private property resulting in injury to or death of a person or damage to a vehicle that is driven or attended by a person shall:

1. Give the driver's name and address and the registration number of the vehicle the driver is driving.

2. On request, exhibit the person's driver license to the person struck or the driver or occupants of or person attending a vehicle collided with.

3. Render reasonable assistance to a person injured in the accident, including making arrangements for the carrying of the person to a physician, surgeon or hospital for medical or surgical treatment if it is apparent that treatment is necessary or if the carrying is requested by the injured person.

B. IF THE FIRST VEHICLE DESCRIBED IN SUBSECTION A OF THIS SECTION IS A FULLY AUTONOMOUS VEHICLE OPERATING WITHOUT A HUMAN DRIVER, THE REQUIREMENTS OF THIS SECTION ARE SATISFIED IF BOTH:

1. THE VEHICLE OWNER OR A PERSON ON BEHALF OF THE VEHICLE OWNER PROMPTLY CONTACTS A LAW ENFORCEMENT AGENCY TO REPORT THE ACCIDENT OR IF THE FULLY AUTONOMOUS VEHICLE ALERTS A LAW ENFORCEMENT AGENCY TO THE ACCIDENT.

2. THE VEHICLE OWNER, A PERSON ON BEHALF OF THE VEHICLE OWNER OR THE FULLY AUTONOMOUS VEHICLE MAKES THE OWNER'S NAME AND ADDRESS AND THE REGISTRATION NUMBER OF THE VEHICLE AVAILABLE TO EITHER:
   (a) A PERSON STRUCK BY THE VEHICLE.
   (b) THE OCCUPANTS OF OR A PERSON ATTENDING A VEHICLE THAT IS INVOLVED IN THE ACCIDENT.

C. A person who fails to comply with subsection A, paragraph 1 or 2 of this section is guilty of a class 3-1 misdemeanor.

D. A person who fails to comply with subsection A, paragraph 3 of this section is guilty of a class 6 felony. If the court finds by a preponderance of the evidence that the person's use of intoxicating liquor, any drug listed in section 13-3401, a vapor releasing substance containing a toxic substance or any combination of liquor, drugs or vapor releasing substances was a contributing factor to the accident, the court shall order the person to complete alcohol or other drug screening.
EXPLANATION OF BLEND
SECTION 28-664

Laws 2021, Chapters 117 and 304

Laws 2021, Ch. 117, section 5
Effective September 29, 2021

Laws 2021, Ch. 304, section 4
Effective September 29, 2021

Explanation

Since these two enactments are compatible, the Laws 2021, Ch. 117 and Ch. 304 text changes to section 28-664 are blended in the form shown on the following page.
28-664. **Duty on striking unattended vehicle; fully autonomous vehicle operating without a human driver; violation; classification**

A. The driver of a vehicle that collides with a vehicle that is unattended on public or private property shall immediately:

1. Stop.
2. Either:
   (a) Locate and notify the operator or owner of the vehicle of the name and address of the driver and owner of the vehicle striking the unattended vehicle.
   (b) In a conspicuous place in the vehicle struck, leave a written notice giving the name and address of the driver and of the owner of the vehicle doing the striking.

B. **IF THE FIRST VEHICLE DESCRIBED IN SUBSECTION A OF THIS SECTION IS A FULLY AUTONOMOUS VEHICLE OPERATING WITHOUT A HUMAN DRIVER, THE REQUIREMENTS OF THIS SECTION ARE SATISFIED IF THE FULLY AUTONOMOUS VEHICLE IMMEDIATELY STOPS AND THE VEHICLE OWNER OR A PERSON ON BEHALF OF THE VEHICLE OWNER PROVIDES THE NOTICE PRESCRIBED IN SUBSECTION A, PARAGRAPH 2 OF THIS SECTION.**

C. **A person who violates this section is guilty of a class 3-1 misdemeanor.**
EXPLANATION OF BLEND
SECTION 28-665

Laws 2021, Chapters 117 and 304

Laws 2021, Ch. 117, section 6                      Effective September 29, 2021
Laws 2021, Ch. 304, section 5                      Effective September 29, 2021

Explanation

Since these two enactments are compatible, the Laws 2021, Ch. 117 and Ch. 304 text changes to section 28-665 are blended in the form shown on the following page.
BLENDF OF SECTION 28-665
Laws 2021, Chapters 117 and 304

28-665. Striking fixtures on a highway; fully autonomous vehicle operating without a human driver; violation; classification

A. The driver of a vehicle involved in an accident resulting only in damage to fixtures or other property legally on or adjacent to a highway shall:

1. Take reasonable steps to locate and notify the owner or person in charge of the property of:
   (a) The fact of the accident.
   (b) The driver's name and address.
   (c) The registration number of the vehicle the driver is driving.

2. On request, exhibit the driver's driver license.

B. IF THE VEHICLE DESCRIBED IN SUBSECTION A OF THIS SECTION IS A FULLY AUTONOMOUS VEHICLE OPERATING WITHOUT A HUMAN DRIVER, THE REQUIREMENTS OF THIS SECTION ARE SATISFIED IF THE VEHICLE OWNER OR A PERSON ON BEHALF OF THE VEHICLE OWNER TAKES REASONABLE STEPS TO NOTIFY THE OWNER OR PERSON IN CHARGE OF THE PROPERTY OF ALL OF THE FOLLOWING:

1. THE FACT OF THE ACCIDENT.
2. THE VEHICLE OWNER'S NAME AND ADDRESS.
3. THE VEHICLE'S REGISTRATION NUMBER.

C. A person who violates this section is guilty of a class 3-1 misdemeanor.
EXPLANATION OF BLEND
SECTION 28-693

Laws 2021, Chapters 385 and 433

<table>
<thead>
<tr>
<th>Legislation</th>
<th>Effective Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Laws 2021, Ch. 385, section 2</td>
<td>September 29, 2021</td>
</tr>
<tr>
<td>Laws 2021, Ch. 433, section 5</td>
<td>September 29, 2021</td>
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</tbody>
</table>

Explanation

Since these two enactments are compatible, the Laws 2021, Ch. 385 and Ch. 433 text changes to section 28-693 are blended in the form shown on the following pages.
28-693. **Reckless driving; violation; classification; license; surrender; aiding and abetting**

A. A person who drives a vehicle in reckless disregard for the safety of persons or property is guilty of reckless driving.

B. A person WHO IS convicted of reckless driving is guilty of a class 2 misdemeanor.

C. In addition, the judge may require the surrender to a police officer of any driver license of the convicted person, shall report the conviction to the department and may order the driving privileges of the person to be suspended for a period of not more than ninety days. On receipt of the abstract of conviction and order, the department shall suspend the driving privilege of the person for the period of time ordered by the judge.

D. If a person who is convicted of a violation of this section has been previously convicted of a violation of this section, section 13-1102 or section 13-1103, subsection A, paragraph 1, in the driving of a vehicle, or section [28-694.] 28-708, 28-1381, 28-1382 or 28-1383 within a period of twenty-four months:

1. The person is guilty of a class 1 misdemeanor.
2. The person is not eligible for probation, pardon, suspension of sentence or release on any basis until the person has served not less than twenty days in jail.
3. The judge may require the surrender to a police officer of any driver license of the person and shall immediately forward the abstract of conviction to the department.
4. On receipt of the abstract of conviction, the department shall revoke the driving privilege of the person FOR ONE YEAR.

E. A PERSON WHO KNOWINGLY AIDS OR ABETS ANOTHER PERSON IN THE COMMISSION OF A VIOLATION OF THIS SECTION IS GUILTY OF A CLASS 2 MISDEMEANOR, EXCEPT THAT A SECOND OR SUBSEQUENT VIOLATION WITHIN A PERIOD OF TWENTY-FOUR MONTHS IS A CLASS 1 MISDEMEANOR.

F. In applying the twenty-four month period provision of subsection D of this section, the dates of the commission of the offense shall be the determining factor, irrespective of the sequence in which the offenses were committed. A second or subsequent violation for which a conviction occurs as provided in this section does not include a conviction for an offense arising out of the same series of acts.

G. On pronouncement of a jail sentence under this section, and after the court receives confirmation that the person is employed or is a student, the court may provide in the sentence that if the defendant is employed or is a student the defendant can continue employment or schooling for not more than twelve hours per day nor more than five days per week. The defendant shall spend the remaining days or parts of days in jail until the sentence is served and shall be allowed out of jail only long enough to complete the defendant's actual hours of employment or schooling.
H. After completing not less than forty-five consecutive days of the suspension period required by Subsection D of this section, a person whose driving privilege is suspended for a violation of this section and who is sentenced pursuant to Subsection D of this section may apply to the department for a restricted driver license that allows the person to operate a motor vehicle during the period of suspension subject to the restrictions described in Section 28-144.
EXPLANATION OF BLEND
SECTION 28-708

Laws 2021, Chapters 385 and 433

Laws 2021, Ch. 385, section 4  Effective September 29, 2021
Laws 2021, Ch. 433, section 6  Effective September 29, 2021

Explanation

Since these two enactments are compatible, the Laws 2021, Ch. 385 and Ch. 433 text changes to section 28-708 are blended in the form shown on the following pages.
28-708. Racing on highways: aiding and abetting; violation; classification; exception; definitions

A. A person shall not drive a vehicle or participate in any manner in a race, speed competition or contest, drag race or acceleration contest, test of physical endurance or exhibition of speed or acceleration or for the purpose of making a speed record on a street or highway.

B. A person who violates this section is guilty of a class 1 misdemeanor. If a person is convicted of a second or subsequent violation of this section within twenty-four months of after a first conviction, the person is guilty of a class 6 felony and is not eligible for probation, pardon, suspension of sentence or release on any other basis until the person has served not less than ten days in jail or prison.

C. A PERSON WHO KNOWINGLY AIDS OR ABETS ANOTHER PERSON IN THE COMMISSION OF A VIOLATION OF THIS SECTION IS GUILTY OF A CLASS 2 MISDEMEANOR, EXCEPT THAT A SECOND OR SUBSEQUENT VIOLATION WITHIN A PERIOD OF TWENTY-FOUR MONTHS IS A CLASS 1 MISDEMEANOR.

D. A person who is convicted of a first violation of this section shall pay a fine of not less than two hundred fifty dollars $250 and may be ordered by the court to perform community restitution.

E. A person who is convicted of a subsequent violation of this section shall pay a fine of not less than five hundred dollars $500 and may be ordered by the court to perform community restitution.

F. On pronouncement of a jail sentence under this section and in cases of extreme hardship, the court may provide in the sentence that if the defendant is employed or attending school and can continue employment or school the defendant may continue the employment or school for not more than twelve hours per day nor more than five days per week, and the defendant shall spend the remaining days or parts of days in jail until the sentence is served. The court may allow the defendant to be out of jail only long enough to complete the defendant's actual hours of employment or school.

G. If a person is convicted of violating this section, the judge may require the surrender to a police officer of any driver license of the person and immediately forward the abstract of conviction to the department. On a first conviction, the judge may order the suspension of the driving privileges of the person for a period of not more than ninety days. In the case of a first conviction and on receipt of the abstract of conviction and order of the court, the department shall suspend the driving privileges of the person for the period of time ordered by the judge. In the case of a second or subsequent conviction for an offense committed within a period of twenty-four months and on receipt of the abstract of conviction, the department shall revoke SUSPEND the driving privileges of the person FOR ONE YEAR.

H. The director may authorize in writing an organized and properly controlled event to utilize USE a highway or part of a highway even
though it is prohibited by this section. The authorization shall specify the time of the event, the highway or part of a highway to be utilized and any special conditions the director may require for the particular event.

I. AFTER COMPLETING NOT LESS THAN FORTY-FIVE CONSECUTIVE DAYS OF THE SUSPENSION PERIOD REQUIRED BY SUBSECTION F OF THIS SECTION, A PERSON WHOSE DRIVING PRIVILEGE IS SUSPENDED FOR A VIOLATION OF THIS SECTION AND WHO IS SENTENCED PURSUANT TO SUBSECTION F OF THIS SECTION MAY APPLY TO THE DEPARTMENT FOR A RESTRICTED DRIVER LICENSE THAT ALLOWS THE PERSON TO OPERATE A MOTOR VEHICLE DURING THE PERIOD OF SUSPENSION SUBJECT TO THE RESTRICTIONS DESCRIBED IN SECTION 28-144.

J. For the purposes of this section:

1. "Drag race" means either:
   (a) The operation of two or more vehicles from a point side by side at accelerating speeds in a competitive attempt to outdistance each other.
   (b) The operation of one or more vehicles over a common selected course and from the same point for the purpose of comparing the relative speeds or power of acceleration of the vehicle or vehicles within a certain distance or time limit.

2. "Racing" means the use of one or more vehicles in an attempt to outgain or outdistance another vehicle or prevent another vehicle from passing.
EXPLANATION OF BLEND
SECTION 28-907

Laws 2021, Chapters 117 and 257

Laws 2021, Ch. 117, section 8  Effective September 29, 2021
Laws 2021, Ch. 257, section 1  Effective September 29, 2021

Explanation

Since these two enactments are compatible, the Laws 2021, Ch. 117 and Ch. 257 text changes to section 28-907 are blended in the form shown on the following pages.
28-907. **Child restraint system; civil penalty; exemptions; notice; child restraint fund; definitions**

A. Except as provided in subsection H of this section, a person shall not operate a motor vehicle on the highways in this state when transporting a child who is under five years of age unless that child is properly secured in a child restraint system.

B. The operator of a motor vehicle that is designed for carrying ten or fewer passengers, that is manufactured for the model year 1972 and thereafter and that is required to be equipped with an integrated lap and shoulder belt or a lap belt pursuant to the federal motor vehicle safety standards prescribed in 49 Code of Federal Regulations section 571.208 shall require each passenger who is at least five years of age, who is under eight years of age and who is not more than four feet nine inches tall to be restrained in a child restraint system.

C. The department shall adopt standards in accordance with CHILD RESTRAINT SYSTEMS SHALL MEET THE REQUIREMENTS OF 49 Code of Federal Regulations section 571.213 for the performance, design and installation of child restraint systems for use in motor vehicles as prescribed in this section.

D. A person who violates this section is subject to a civil penalty of fifty dollars $50, except that a civil penalty shall not be imposed if the person makes a sufficient showing that the motor vehicle has been subsequently equipped with a child restraint system that meets the standards adopted pursuant to subsection C of this section. A sufficient showing may include a receipt mailed to the appropriate court officer that evidences purchase or acquisition of a child restraint system. The court imposing and collecting the civil penalty shall deposit, pursuant to sections 35-146 and 35-147, the monies, exclusive of any surcharges imposed pursuant to sections 12-116.01 and 12-116.02, in the child restraint fund.

E. If a law enforcement officer stops a vehicle for an apparent violation of this section, the officer shall determine from the driver the age and height of the child or children in the vehicle to assess whether the child or children in the vehicle should be in child restraint systems.

F. If the information given to the officer indicates that a violation of this section has not been committed, the officer shall not detain the vehicle any further unless some additional violation is involved. The stopping of a vehicle for an apparent or actual violation of this section is not probable cause for the search or seizure of the vehicle unless there is probable cause for another violation of law.

G. The requirements of this section or evidence of a violation of this section are not admissible as evidence in a judicial proceeding except in a judicial proceeding for a violation of this section.

H. This section does not apply to any of the following:
1. A person who operates a motor vehicle that was originally manufactured without passenger restraint devices.

2. A person who operates a motor vehicle that is also a recreational vehicle as defined in section 41-4001.

3. A person who operates a commercial motor vehicle and who holds a current commercial driver license issued pursuant to chapter 8 of this title.

4. A person who must transport a child in an emergency to obtain necessary medical care.

5. A person who operates an authorized emergency vehicle that is transporting a child for medical care.

6. A person who transports more than one child under eight years of age in a motor vehicle that because of the restricted size of the passenger area does not provide sufficient area for the required number of child restraint systems, if both of the following conditions are met:
   (a) At least one child is restrained or seated as required by this section.
   (b) The person has secured as many of the other children in child restraint systems pursuant to this section as is reasonable given the restricted size of the passenger area and the number of passengers being transported in the motor vehicle.

I. Before the release of any newly born child from a hospital, the hospital in conjunction with the attending physician shall provide the parents of the child with a copy of this section and information with regard to the availability of loaner or rental programs for child restraint systems that may be available in the community where the child is born.

J. THE child restraint fund is established. The fund consists of all civil penalties deposited pursuant to this section and any monies donated by the public. The department of child safety shall administer the fund.

K. The department of child safety shall purchase child restraint systems that meet the requirements of this section from monies deposited in the fund. If a responsible agency requests child restraint systems and if they are available, the department of child safety shall distribute child restraint systems to the requesting responsible agency.

L. On the application of a person to a responsible agency on a finding by the responsible agency to which the application was made that the applicant is unable to acquire a child restraint system because the person is indigent and subject to availability, the responsible agency shall lend the applicant a child restraint system at no charge for as long as the applicant has a need to transport a child who is subject to this section.

M. Monies in the child restraint fund shall not exceed twenty thousand dollars $20,000. All monies collected over the twenty thousand dollar $20,000 limit shall be deposited in the Arizona highway user revenue fund established by section 28-6533.
N. THE PARENT OR GUARDIAN OF A CHILD OR OTHER ADULT ACCOMPANYING A CHILD IN THE VEHICLE MAY BE ISSUED A CITATION FOR A VIOLATION OF SUBSECTION A OF THIS SECTION THAT OCCURS IN A FULLY AUTONOMOUS VEHICLE OPERATING WITH THE AUTOMATED DRIVING SYSTEM ENGAGED.

N. O. For the purposes of this section:

1. "Child restraint system" means an add-on child restraint system, a built-in child restraint system, a factory-installed built-in child restraint system, a rear-facing child restraint system or a booster seat as defined in 49 Code of Federal Regulations section 571.213.

2. "Indigent" means a person who is defined as an eligible person pursuant to section 36-2901.01.

3. "Responsible agency" means a licensed hospital, a public or private agency providing shelter services to victims of domestic violence, a public or private agency providing shelter services to homeless families or a health clinic.
EXPLANATION OF BLEND
SECTION 28-966

Laws 2021, Chapters 117 and 244

Laws 2021, Ch. 117, section 14  Effective September 29, 2021
Laws 2021, Ch. 244, section 2  Effective September 29, 2021

Explanation

Since these two enactments are compatible, the Laws 2021, Ch. 117 and Ch. 244 text changes to section 28-966 are blended in the form shown on the following page.
28-966. **Neighborhood electric vehicles: neighborhood electric shuttles: motorized quadricycles: speed: restrictions: exception**

A. A neighborhood electric vehicle AND A NEIGHBORHOOD ELECTRIC SHUTTLE shall not be operated at a speed of more than twenty-five miles per hour. A motorized quadricycle shall not be operated at a speed of more than fifteen miles per hour.

B. A neighborhood electric vehicle, A NEIGHBORHOOD ELECTRIC SHUTTLE and a motorized quadricycle shall not be driven on a highway that has a posted speed limit of more than thirty-five miles per hour. This subsection does not prohibit a neighborhood electric vehicle, A NEIGHBORHOOD ELECTRIC SHUTTLE or a motorized quadricycle from crossing a highway that has a posted speed limit of more than thirty-five miles per hour at an intersection.

C. A neighborhood electric vehicle, A NEIGHBORHOOD ELECTRIC SHUTTLE and a motorized quadricycle shall have a notice of the operational restrictions applying to the vehicle permanently attached to or painted on the vehicle in a location that is in clear view of the driver. THIS SUBSECTION DOES NOT APPLY TO A FULLY AUTONOMOUS VEHICLE THAT IS INCAPABLE OF OPERATION BY A HUMAN DRIVER.
EXPLANATION OF BLEND
SECTION 28-1385

Laws 2021, Chapters 170 and 385

Laws 2021, Ch. 170, section 1  Effective September 29, 2021
Laws 2021, Ch. 385, section 5  Effective September 29, 2021

Explanation

Since these two enactments are compatible, the Laws 2021, Ch. 170 and Ch. 385 text changes to section 28-1385 are blended in the form shown on the following pages.
28-1385. Administrative license suspension for driving under the influence or for homicide or assault involving a motor vehicle; report; hearing; summary review; ignition interlock device requirement

A. A law enforcement officer shall forward to the department a certified report as prescribed in subsection B of this section, subject to the penalty for perjury prescribed by section 28-1561, if both of the following occur:

1. The officer arrests a person for a violation of section 4-244, paragraph 34, section 28-1381, section 28-1382 or section 28-1383 or for a violation of title 13, chapter 11 or section 13-1201 or 13-1204 involving a motor vehicle.

2. The person submits to a TEST OF THE PERSON'S blood, or breath, urine test URINE OR OTHER BODILY SUBSTANCE THAT IS permitted by section 28-1321 or any other law or a sample of blood is obtained pursuant to section 28-1388 and the results are either not available or the results indicate any of the following:

(a) 0.08 or more alcohol concentration in the person's blood or breath.

(b) 0.04 or more alcohol concentration in the person's blood or breath if the person was driving or in actual physical control of a commercial motor vehicle.

(c) Any drug defined in section 13-3401 or its metabolite is in the person's body except if the person possesses a valid prescription for the drug.

B. The officer shall make the certified report required by subsection A of this section on forms supplied or approved by the department. The report shall state information that is relevant to the enforcement action, including:

1. Information that adequately identifies the arrested person.

2. A statement of the officer's grounds for belief that the person was driving or in actual physical control of a motor vehicle in violation of section 4-244, paragraph 34, section 28-1381, section 28-1382 or section 28-1383 or committed a violation of title 13, chapter 11 or section 13-1201 or 13-1204 involving a motor vehicle.

3. A statement that the person was arrested for a violation of section 4-244, paragraph 34, section 28-1381, section 28-1382 or section 28-1383 or for a violation of title 13, chapter 11 or section 13-1201 or 13-1204 involving a motor vehicle.

4. A report of the results of the blood or breath alcohol test that was administered, if the results are available.
C. IF A BREATH TEST IS ADMINISTERED, A LAW ENFORCEMENT AGENCY SHALL FORWARD THE CERTIFIED REPORT THAT IS REQUIRED BY SUBSECTION A OF THIS SECTION TO THE DEPARTMENT WITHIN THIRTY DAYS AFTER THE ARREST OCCURS. IF A SAMPLE OF BLOOD, URINE OR OTHER BODILY SUBSTANCE IS OBTAINED, THE LAW ENFORCEMENT AGENCY SHALL FORWARD THE CERTIFIED REPORT THAT IS REQUIRED BY SUBSECTION A OF THIS SECTION TO THE DEPARTMENT WITHIN THIRTY DAYS AFTER THE DATE THE REPORT OF THE ANALYSIS IS PROVIDED TO THE LAW ENFORCEMENT AGENCY. IF A REPORT IS NOT FORWARDED TO THE DEPARTMENT WITHIN THE TIME LIMIT PRESCRIBED BY THIS SUBSECTION, THE REPORT IS INADMISSIBLE IN A HEARING HELD PURSUANT TO THIS SECTION UNLESS THE VIOLATION LISTED IN SUBSECTION A OF THIS SECTION RESULTED IN A DEATH OR SERIOUS PHYSICAL INJURY. FOR THE PURPOSES OF THIS SUBSECTION "SERIOUS PHYSICAL INJURY" HAS THE SAME MEANING PRESCRIBED IN SECTION 13-105.

D. The officer shall also serve an order of suspension on the person on behalf of the department. The order of suspension:

1. Is effective fifteen days after the date it is served.
2. Shall require the immediate surrender of any license or permit to drive that is issued by this state and that is in the possession or control of the person.
3. Shall contain information concerning the right to a summary review and hearing, including information concerning the hearing as required by section 28-1321, subsections 6 and H.
4. Shall be accompanied by printed forms that are ready to mail to the department, that the person may fill out and sign to indicate the person's desire for a hearing OR SUMMARY REVIEW and that advise the person that the person may alternatively submit an online request for a hearing OR SUMMARY REVIEW.
5. Shall be entered on the department's records on receipt of the report by the officer and a copy of the order of suspension.
6. Shall inform the person that the person's driving privilege, license, permit, right to apply for a license or permit or nonresident operating privilege may be issued or reinstated following the period of suspension only if the person completes alcohol or other drug screening.
7. Shall contain information on alcohol or other drug education and treatment programs that are provided by a facility approved by the department of health services.

E. If the blood test result is unavailable at the time the test is administered, the result shall be forwarded to the department before the hearing held pursuant to this section in a form prescribed by the director.

F. If the license or permit is not surrendered pursuant to subsection D of this section, the officer shall state the reason for the nonsurrender. If a valid license or permit is surrendered, the officer shall issue a temporary driving permit that is valid for fifteen days. The officer shall forward a copy of the completed order of suspension and a copy of any completed temporary permit to the department within five days after the issuance of the order of suspension along with the report. The law enforcement agency may do either of the following with a valid license or permit that is surrendered pursuant to this section:

1. In compliance with sections 41-151.15 and 41-151.19, destroy the license or permit.
2. Forward the license or permit to the department within five days after the issuance of the notice of suspension.

G. The department shall suspend the affected person's license or permit to drive or right to apply for a license or permit or any nonresident operating privilege for not less than ninety consecutive days from that date. If the person is otherwise qualified, the department may reinstate the person's driving privilege, license, permit, right to apply for a license or permit or nonresident operating privilege following the period of suspension only if the violator completes alcohol or other drug screening.

H. Notwithstanding subsections A, through F, B, C, D, E, F AND G of this section, the department shall suspend the driving privileges of the person described in subsection A of this section for not less than AT LEAST thirty consecutive days and shall restrict the PERSON'S driving privileges of the person AS PRESCRIBED IN SECTION 28-144 for not less than AT LEAST sixty consecutive additional days to travel between the person's place of employment and residence and during specified periods of time while at employment, to travel between the person's place of residence and the person's secondary or postsecondary school, according to the person's employment or educational schedule, to travel between the person's place of residence and the office of the person's probation officer for scheduled appointments or to travel between the person's place of residence and a screening, education or treatment facility for scheduled appointments if the person:

1. Did not cause death or serious physical injury as defined in section 13-105 to another person during the course of conduct out of which the current action arose.

2. Has not been convicted of a violation of section 4-244, paragraph 34, section 28-1381, section 28-1382 or section 28-1383 within eighty-four months of the date of commission of the acts out of which the current action arose. The dates of commission of the acts are the determining factor in applying the eighty-four month provision.

3. Has not had the person's privilege to drive suspended pursuant to this section or section 28-1321 within eighty-four months of the date of commission of the acts out of which the current action arose.

4. Provides satisfactory evidence to the department of the person's completion of alcohol or other drug screening that is ordered by the department. If the person does not complete alcohol or other drug screening, the department may impose a ninety day suspension pursuant to this section.

I. If the officer does not serve an order of suspension pursuant to subsection D of this section and if the department does not receive the report of the results of the blood or breath alcohol test pursuant to subsection B, paragraph 4 of this section, but subsequently receives the results and the results indicate 0.08 or more alcohol concentration in the person's blood or breath, a blood or breath alcohol concentration of 0.04 or more and the person was driving or in actual physical control of a commercial motor vehicle or any drug defined in section 13-3401 or its metabolite in the person's body and the person does not possess a valid prescription for the drug, the department shall notify the person named in the report in writing sent by mail that fifteen days after the date of
issuance of the notice the department will suspend the person's license or permit, driving privilege or nonresident driving privilege. The notice shall also state that the department will provide an opportunity for a hearing and administrative SUMMARY review if the person requests a hearing or review in writing and the request is received by the department within fifteen days after the notice is sent.

I. J. A timely request for a hearing stays the suspension until a hearing is held, except that the department shall not return any surrendered license or permit to the person but may issue temporary permits to drive that expire no later than when the department has made its final decision. If the person is a resident without a license or permit or has an expired license or permit, the department may allow the person to apply for a restricted license or permit. If the department determines the person is otherwise entitled to the restricted license or permit, the department shall issue, but retain, the license or permit, subject to this section. All hearings requested under this section shall be conducted in the same manner and under the same conditions as provided in section 28-3306.

J. K. For the purposes of this section, the scope of the hearing shall include only the following issues:

1. Whether the officer had reasonable grounds to believe the person was driving or was in actual physical control of a motor vehicle while under the influence of intoxicating liquor or drugs.

2. Whether the person was placed under arrest for a violation of section 4-244, paragraph 34, section 28-1381, section 28-1382 or section 28-1383 or for a violation of title 13, chapter 11 or section 13-1201 or 13-1204 involving a motor vehicle.

3. Whether a test was taken, the results of which indicated any of the following:
   (a) An alcohol concentration in the person's blood or breath at the time the test was administered of either:
      (i) 0.08 or more.
      (ii) 0.04 or more if the person was driving or in actual physical control of a commercial motor vehicle.
   (b) Any drug defined in section 13-3401 or its metabolite in the person's body except if the person possesses a valid prescription for the drug.

4. Whether the testing method used was valid and reliable.

5. Whether the test results were accurately evaluated.

K. L. The results of the blood or breath alcohol test shall be admitted on establishing the requirements in section 28-1323 or 28-1326.

M. If the department determines at the hearing to suspend the affected person's privilege to operate a motor vehicle, the suspension provided in this section is effective fifteen days after giving written notice of the suspension, except that the department may issue or extend a temporary license that expires on the effective date of the suspension. If the person is a resident without a license or permit or has an expired license or permit to operate a motor vehicle in this state, the department shall deny the issuance of a license or permit to the person for not less than ninety consecutive days. The department may reinstate the person's driving privilege, license, permit, right to apply for a license or permit
or nonresident operating privilege following the period of suspension only if the violator completes alcohol or other drug screening.

M. N. A person may apply for REQUEST a summary review of an order issued pursuant to this section instead of a hearing at any time before the effective date of the order. A timely request for summary review stays the suspension until a decision is issued. The person shall submit the application REQUEST in writing to any THE department driver license examiner office together with any written explanation as to why the department should not suspend the driving privilege. The department shall review all reports submitted by the officer and any written explanation submitted by the person and shall determine if the order of suspension should be sustained or cancelled VOIDED. The department shall not hold a hearing, and the review is not subject to title 41, chapter 6. The department shall notify the person of its decision.

M. O. If the suspension or determination that there should be a denial of issuance is not sustained after a hearing or review, the ruling is not admissible in and does not have any effect on any civil or criminal court proceeding.

M. P. If it has been determined under the procedures of this section that a nonresident's privilege to operate a motor vehicle in this state has been suspended, the department shall give information either in writing or by electronic means of the action taken to the motor vehicle administrator of the state of the person's residence and of any state in which the person has a license.
EXPLANATION OF BLEND  
SECTION 28-1603  

Laws 2021, Chapters 189 and 288  

Laws 2021, Ch. 189, section 3  
Effective September 29, 2021  

Laws 2021, Ch. 288, section 3  
Effective September 29, 2021  

Explanation  

Since these two enactments are compatible, the Laws 2021, Ch. 189 and Ch. 288 text changes to section 28-1603 are blended in the form shown on the following page.  

The Laws 2021, Ch. 288 version of section 28-1603, subsection B, paragraph 4 struck "1385" and inserted "1383f". The Ch. 189 version struck "1385" and inserted "1383(f)". Since this would not produce a substantive change, the blend version reflects the Ch. 288 version.
28-1603. **Civil penalty mitigation or waiver**

A. Notwithstanding any other law, a judge may mitigate OR WAIVE any
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civil penalty that is required under chapters 3, 5, 7[, 8] and 9 of this
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title if the person who is ordered to pay the penalty demonstrates that the
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payment would be a hardship on the person or on the person's immediate
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family.

B. In determining whether to mitigate a civil penalty, the court may
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consider any relevant information, including any of the following:
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1. The civil penalty's impact on the person's ability to pay
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restitution.

2. Whether the civil penalty would constitute a financial hardship
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to the person or the person's immediate family.

3. Whether the person receives temporary assistance for needy
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families pursuant to 42 United States Code section 603 or supplemental
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nutrition assistance pursuant to 7 United States Code sections 2011 through
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2036c.

4. Whether the person receives benefits pursuant to the supplemental
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security income program (42 United States Code sections 1381 through
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1385 1383f).

5. Whether the person is legally authorized to be employed and is
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seeking, obtaining or maintaining employment or is attending school.

C. This section does not apply to the surcharge imposed and collected
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pursuant to section 16-954, subsection A.
EXPLANATION OF BLEND
SECTION 28-2058

Laws 2021, Chapters 267 and 335

Laws 2021, Ch. 267, section 2  Effective January 1, 2022
Laws 2021, Ch. 335, section 9  Effective September 29, 2021

Explanation
Since these two enactments are compatible, the Laws 2021, Ch. 267 and Ch. 335 text changes to section 28-2058 are blended effective from and after December 31, 2021 in the form shown on the following pages.
28-2058. Transfer of title; odometer mileage disclosure statement; education

A. When the owner of a registered or unregistered vehicle transfers or assigns the owner's title or interest to the vehicle:

1. If the vehicle is registered:
   (a) The owner shall endorse on the certificate of title or title transfer form an assignment with the warranty of title.
   (b) Except as provided in section 28-2094, the owner shall deliver the certificate of title or title transfer form to the purchaser or transferee at the time of delivery of the vehicle to the purchaser or transferee.
   (c) The registration of the vehicle expires and the owner shall transfer the license plates, surrender the license plates to the department or an authorized third party or submit an affidavit of license plate destruction within thirty days after the owner transfers or assigns the owner's title or interest in the vehicle.
   (d) Except as provided in section 28-2091, the acquiring owner shall apply for registration or a certificate of title, or both, within fifteen days after the relinquishing owner transfers or assigns the relinquishing owner's CERTIFICATE OF title or interest in the vehicle. The director may prorate the registration period as the director deems necessary to coincide with emissions inspection requirements.
   (e) Except if the acquiring owner is an insurer who acquires the vehicle pursuant to a claim settlement, the acquiring owner shall display on the vehicle a temporary registration plate, another permit or a valid license plate as prescribed by the department until ownership of the vehicle is transferred in the department's records.

2. Regardless of whether or not the vehicle is registered:
   (a) Except as provided in subsection B of this section, the owner shall deliver to the purchaser or transferee an odometer mileage disclosure statement in a form prescribed by the director.
   (b) Except as provided in sections 28-2051, 28-2060 and 28-2091, the purchaser or transferee shall present the certificate of title or title transfer form to the department with the required fee within fifteen days after the transfer and:
      (i) The department shall issue a new certificate of title.
      (ii) If required, the purchaser or transferee shall apply for and obtain registration, and the department shall issue new license plates to the purchaser or transferee.

B. The odometer disclosure requirement of subsection A of this section does not apply to:
1. A motor vehicle that is ten model years of age if the model year is 2010 or older.

2. A motor vehicle that is twenty model years of age if the model year is 2011 or newer.

3. A motor vehicle that has a gross vehicle weight rating of sixteen thousand pounds or more.

4. A vehicle that is not self-propelled.

5. A motor vehicle that is sold directly by the manufacturer to an agency of the United States in conformity with contractual specifications.

6. A new motor vehicle that is purchased for resale and not for use by the purchaser.

C. In the department's information and education materials, the department shall include information relating to the process by which an individual may notify the department when the title to or an interest in a vehicle is transferred or assigned.
EXPLANATION OF BLEND  
SECTION 28-2157  

Laws 2021, Chapters 117 and 244  
Laws 2021, Ch. 117, section 15  
Laws 2021, Ch. 244, section 3  

Effective September 29, 2021  

Explanation  
Since these two enactments are compatible, the Laws 2021, Ch. 117 and Ch. 244 text changes to section 28-2157 are blended in the form shown on the following page.
28-2157. Application for registration: exception
   A. A person shall apply to the department for registration of a motor
      vehicle, trailer or semitrailer on forms prescribed or authorized by the
      department.
   B. The application shall contain:
      1. The name and complete residence address of the owner.
      2. A description of the vehicle, including the serial number.
      3. If it is a new vehicle, the date of sale by the manufacturer or
         dealer to the person first operating the vehicle.
      4. If the owner of the vehicle rents or intends to rent the vehicle
         without a driver, a statement of that fact.
      5. Other facts required by the department.
   C. The registering officer shall indicate on the face of the
      registration application that the registrant may be subject to vehicle
      emissions testing requirements pursuant to section 49-542.
   D. On request of an applicant, the department shall allow the
      applicant to provide on the registration of a motor vehicle, trailer or
      semitrailer a post office box address that is regularly used by the applicant
      and that is located in the county in which the applicant resides.
   E. The person shall include with the application the required fees
      and the certificate of title to the vehicle for which registration is
      sought. The registering officer may waive the requirement that the
      applicant present a certificate of title at the time of making an application
      for renewal if the registering officer has available complete and sufficient
      records to accurately compute the vehicle license tax.
   F. The department may request an applicant who appears in person to
      register a motor vehicle, trailer or semitrailer to satisfactorily complete
      the vision screening test prescribed by the department.
   G. A person applying for initial registration of a neighborhood
      electric vehicle, A NEIGHBORHOOD ELECTRIC SHUTTLE or a motorized quadricycle
      shall certify in writing that a notice of the operational restrictions
      applying to the vehicle as provided in section 28-966 are contained on a
      permanent notice attached to or painted on the vehicle in a location that
      is in clear view of the driver. THIS SUBSECTION DOES NOT APPLY TO A FULLY
      AUTONOMOUS VEHICLE THAT IS INCAPABLE OF OPERATION BY A HUMAN DRIVER.
EXPLANATION OF BLEND
SECTION 28-2351


| Laws 2021, Ch. 136, section 1 | Effective September 29, 2021 |
| Laws 2021, Ch. 143, section 1 | Effective September 29, 2021 |
| Laws 2021, Ch. 153, section 1 | Effective September 29, 2021 |
| Laws 2021, Ch. 175, section 1 | Effective September 29, 2021 |
| Laws 2021, Ch. 191, section 1 | Effective September 29, 2021 |
| Laws 2021, Ch. 215, section 1 | Effective September 29, 2021 |
| Laws 2021, Ch. 253, section 1 | Effective September 29, 2021 |
| Laws 2021, Ch. 255, section 1 | Effective September 29, 2021 |
| Laws 2021, Ch. 270, section 1 | Effective September 29, 2021 |
| Laws 2021, Ch. 371, section 1 | Effective September 29, 2021 |

Explanation

Since these ten enactments are compatible, the Laws 2021, Ch. 136, Ch. 143, Ch. 153, Ch. 175, Ch. 191, Ch. 215, Ch. 253, Ch. 255, Ch. 270 and Ch. 371 text changes to section 28-2351 are blended in the form shown on the following page.
28-2351. License plate provided: design

A. Notwithstanding any other law, the department shall provide to every owner one license plate for each vehicle registered. At the request of the owner and on payment of a fee in an amount prescribed by the director by rule, the department shall provide one additional license plate for a vehicle for which a special plate is requested pursuant to this chapter.

B. The license plate shall display the number assigned to the vehicle and to the owner of the vehicle and the name of this state, which may be abbreviated. The director shall coat the license plate with a reflective material that is consistent with the determination of the department regarding the color and design of license plates and special plates. The director shall design the license plate and the letters and numerals on the license plate to be of sufficient size to be plainly readable during daylight from a distance of one hundred feet. In addition to the standard license plate issued for a trailer before August 12, 2005, the director shall issue a license plate for trailers that has a design that is similar to the standard size license plate for trailers but that is the same size as the license plate for motorcycles. The trailer owner shall notify the department which size license plate the owner wants for the trailer.

C. Notwithstanding any other law, the department shall not contract with a nongovernmental entity to purchase or secure reflective material for the plates issued by the department unless the department has made a reasonable effort to secure qualified bids or proposals from as many individual responsible respondents as possible.

D. The department shall determine the color and design of the license plate. All other plates issued by the department, except the plates issued pursuant to sections 28-2404, 28-2412, 28-2413, 28-2414, 28-2416, 28-2416.01, 28-2417 through 28-2466, 28-2470.09, 28-2472, 28-2473, 28-2474, 28-2475, 28-2476 and 28-4533 and article 14 of this chapter, shall be the same color as and similar in design to the license plate as determined by the department.

E. A passenger motor vehicle that is rented without a driver shall receive the same type of license plate as is issued for a private passenger motor vehicle.
EXPLANATION OF BLEND
SECTION 28-2403


| Laws 2021, Ch. 136, section 2 | Effective September 29, 2021 |
| Laws 2021, Ch. 143, section 2 | Effective September 29, 2021 |
| Laws 2021, Ch. 153, section 2 | Effective September 29, 2021 |
| Laws 2021, Ch. 175, section 2 | Effective September 29, 2021 |
| Laws 2021, Ch. 191, section 2 | Effective September 29, 2021 |
| Laws 2021, Ch. 215, section 2 | Effective September 29, 2021 |
| Laws 2021, Ch. 253, section 2 | Effective September 29, 2021 |
| Laws 2021, Ch. 255, section 2 | Effective September 29, 2021 |
| Laws 2021, Ch. 270, section 2 | Effective September 29, 2021 |
| Laws 2021, Ch. 371, section 2 | Effective September 29, 2021 |

Explanation

Since these ten enactments are compatible, the Laws 2021, Ch. 136, Ch. 143, Ch. 153, Ch. 175, Ch. 191, Ch. 215, Ch. 253, Ch. 255, Ch. 270 and Ch. 371 text changes to section 28-2403 are blended in the form shown on the following page.
28-2403. Special plates; transfers; violation; classification

A. Except as otherwise provided in this article, the department shall issue or renew special plates in lieu of the regular license plates pursuant to the following conditions and procedures and only if the requirements prescribed by this article for the requested special plates are met:

1. Except as provided in sections 28-2416 and 28-2416.01, a person who is the registered owner of a vehicle registered with the department or who applies for an original or renewal registration of a vehicle may submit to the department a completed application form as prescribed by the department with the fee prescribed by section 28-2402 for special plates in addition to the registration fee prescribed by section 28-2003.

2. Except for plates issued pursuant to sections 28-2404, 28-2412, 28-2413, 28-2414, 28-2416, 28-2416.01, 28-2417 through 28-2460, 28-2470.09, 28-2472, 28-2473, 28-2474, 28-2475 and 28-2476 and article 14 of this chapter, the special plates shall be the same color as and similar to the design of the regular license plates that is determined by the department.

3. Except as provided in section 28-2416, the department shall issue special plates only to the owner or lessee of a vehicle that is currently registered, including any vehicle that has a declared gross weight, as defined in section 28-5431, of twenty-six thousand pounds or less.

4. Except as provided in sections 28-2416 and 28-2416.01, the department shall charge the fee prescribed by section 28-2402 for each annual renewal of special plates in addition to the registration fee prescribed by section 28-2003.

B. Except as provided in sections 28-2416 and 28-2416.01, on notification to the department and on payment of the transfer fee prescribed by section 28-2402, a person who is issued special plates may transfer the special plates to another vehicle the person owns or leases. Persons who are issued special plates for hearing impaired persons pursuant to section 28-2409 and international symbol of access special plates pursuant to section 28-2409 are exempt from the transfer fee. If a person who is issued special plates sells, trades or otherwise releases ownership of the vehicle on which the plates have been displayed, the person shall immediately report the transfer of the plates to the department or the person shall surrender the plates to the department as prescribed by the director. It is unlawful for a person to whom the plates have been issued to knowingly permit another person to display the plates on a vehicle except the vehicle authorized by the department.

C. The special plates shall be affixed to the vehicle for which registration is sought in lieu of the regular license plates.

D. A person is guilty of a class 3 misdemeanor who:

1. Violates subsection B of this section.

2. Fraudulently gives false or fictitious information in the application for or renewal of special plates or placards issued pursuant to this article.

3. Conceals a material fact or otherwise commits fraud in the application for or renewal of special plates or placards issued pursuant to this article.
EXPLANATION OF BLEND
SECTION 28-3165

Laws 2021, Chapters 329 and 374

Laws 2021, Ch. 329, section 2                   Effective September 29, 2021
Laws 2021, Ch. 374, section 1                   Effective September 29, 2021

Explanation

Since these two enactments are compatible, the Laws 2021, Ch. 329 and Ch. 374 text changes to section 28-3165 are blended in the form shown on the following pages.
28-3165. Nonoperating identification license; immunity; rules; emancipated minors; definition

A. On receipt of an application from a person who does not have a valid driver license issued by this state or whose driving privilege is suspended, the department shall issue a nonoperating identification license that contains a distinguishing number assigned to the licensee, the full legal name, the date of birth, the residence address and a brief description of the licensee and either a facsimile of the signature of the licensee or a space on which the licensee is required to write the licensee's usual signature with pen and ink. A nonoperating identification license that is issued to a person whose driving privilege is suspended shall not be valid for more than one hundred eighty days from the date of issuance.

B. On request of an applicant:
   1. The department shall allow the applicant to provide on the nonoperating identification license a post office box address that is regularly used by the applicant.
   2. If the applicant submits satisfactory proof to the department that the applicant is a veteran, the department shall allow a distinguishing mark to appear on the nonoperating identification license that identifies that person as a veteran.

C. A person who is issued a license pursuant to this section shall use it only for identification purposes of the licensee. The nonoperating identification license does not grant authority to operate a motor vehicle in this state. The department shall clearly label the nonoperating identification license "for identification only, not for operation of a motor vehicle".

D. On issuance of a driver license, the holder of a nonoperating identification license shall surrender the nonoperating identification license to the department and the department shall not refund any fee paid for the issuance of the nonoperating identification license.

E. A nonoperating identification license shall contain the photograph of the licensee. The department shall use a process in the issuance of nonoperating identification licenses that prohibits as nearly as possible the ability to superimpose a photograph on the license without ready detection. The department shall process nonoperating identification licenses and photo attachments in color.

F. On application, an applicant shall give the department satisfactory proof of the applicant's full legal name, date of birth, sex and residence address, if the applicant has a residence address, and that the applicant's presence in the United States is authorized under federal law. The application shall briefly describe the applicant, state whether the applicant has been licensed, and if so, the type of license issued, when and by what state or country and whether any such license is under suspension, revocation
or cancellation. The application shall contain other identifying information required by the department.

G. The department may adopt and implement procedures to deny a nonoperating identification license to a person who has been deported. The department may adopt and implement procedures to reinstate a person's privilege to apply for a nonoperating identification license if the person's legal presence status is restored.

H. A nonoperating identification license issued by the department is solely for the use and convenience of the applicant for identification purposes.

I. The department shall adopt rules and establish fees for issuance of a nonoperating identification license, except that the department shall not require an examination.

J. The fees established pursuant to this section do not apply to any of the following:

1. A person who is sixty-five years of age or older.

2. A person who is a recipient of public monies as an individual with a disability under title XVI of the social security act, as amended.

3. A veteran who does not have a residence address.

4. A veteran whose residence address is the address of a shelter that provides services to the homeless.

5. A CHILD IN THE CUSTODY OF THE DEPARTMENT OF CHILD SAFETY.

K. If a person qualifies for a nonoperating identification license and is under the legal drinking age, the department shall issue a license that is marked by color, code or design to immediately distinguish it from a nonoperating identification license issued to a person of legal drinking age. The department shall indicate on the nonoperating identification license issued pursuant to this subsection the year in which the person will attain the legal drinking age.

L. If a minor has been emancipated pursuant to title 12, chapter 15, on application and proof of emancipation, the department shall issue a nonoperating identification license that contains the words "emancipated minor".

M. NOTWITHSTANDING ANY OTHER LAW, IF AN APPLICANT FOR A NONOPERATING IDENTIFICATION LICENSE IS AT LEAST SIXTEEN YEARS OF AGE AND EITHER DOES NOT HAVE A RESIDENCE ADDRESS OR IS IN THE DEPARTMENT OF CHILD SAFETY'S CUSTODY, THE APPLICANT DOES NOT NEED A SIGNATURE OF THE APPLICANT'S PARENT, GUARDIAN, FOSTER PARENT OR EMPLOYER.

N. For the purposes of this section, "veteran" has the same meaning prescribed in section 41-601.
EXPLANATION OF BLEND
SECTION 28-3304

Laws 2021, Chapters 170 and 385

Laws 2021, Ch. 170, section 2  Effective September 29, 2021
Laws 2021, Ch. 385, section 8  Effective September 29, 2021

Explanation

Since these two enactments are compatible, the Laws 2021, Ch. 170 and Ch. 385 text changes to section 28-3304 are blended in the form shown on the following page.
28-3304. Mandatory revocation of license: definition

A. In addition to the grounds for mandatory revocation provided for in chapters 3, 4 and 5 of this title, the department shall immediately revoke the license of a driver on receipt of a record of the driver's conviction of any of the following offenses if the conviction is final:

1. A homicide or aggravated assault resulting from the operation of a motor vehicle.
2. A felony in the commission of which a motor vehicle is used.
3. Theft of a motor vehicle pursuant to section 13-1802.
4. Unlawful use of means of transportation pursuant to section 13-1803.
5. Theft of means of transportation pursuant to section 13-1814.
6. Drive by shooting pursuant to section 13-1209.
7. Failure to stop and render aid as required under the laws of this state if a motor vehicle accident results in the death or personal injury of another.
8. Perjury or the making of a false affidavit or statement under oath to the department under this chapter or under any other law relating to the ownership or operation of a motor vehicle.

9. Conviction or forfeiture of bail not vacated on a second or subsequent charge of the following offenses that are committed within eighty-four months:

(a) Reckless driving.
(b) Racing on highways.
(c) Any combination of a violation of section 28-1381 or 28-1382 and reckless driving, of a violation of section 28-1381 or 28-1382 and racing on highways, or of reckless driving and racing on highways, if they do not arise out of the same event.

10. Conviction or forfeiture of bail not vacated on a second charge of violating section 28-1381 or 28-1382 within eighty-four months.

11. Conviction or forfeiture of bail not vacated on a charge of violating section 28-1381 or 28-1382 and the driver has been convicted within a period of eighty-four months of an offense in another jurisdiction that if committed in this state would be a violation of section 28-1381 or 28-1382.

B. In determining the starting date for the eighty-four month period prescribed in subsection A, paragraphs 9, 10, AND 11 AND 12 of this section, the department shall use the date of the commission of the offense.

C. For the purposes of this section, "conviction" means a final adjudication or judgment, including an order of a juvenile court finding that a juvenile violated any provision of this title or committed a delinquent act that if committed by an adult would constitute a criminal offense.
EXPLANATION OF BLEND
SECTION 28-3315

Laws 2021, Chapters 117, 119 and 385

Laws 2021, Ch. 117, section 16  Effective September 29, 2021
Laws 2021, Ch. 119, section 7  Effective September 29, 2021
Laws 2021, Ch. 385, section 9  Effective September 29, 2021

Explanation

Since these three enactments are compatible, the Laws 2021, Ch. 117, Ch. 119 and Ch. 385 text changes to section 28-3315 are blended in the form shown on the following pages.
28-3315. Period of suspension, revocation or disqualification: unlicensed drivers; definitions

A. The department shall not suspend, revoke or disqualify a driver license or privilege to drive a motor vehicle on the public highways for more than one year from the date of a conviction or judgment, if any, against a person for which this chapter makes revocation, suspension or disqualification mandatory or from the date the notice is sent pursuant to section 28-3318 if no conviction was involved, except as permitted under subsection E of this section and sections 28-3312, 28-3319 and 28-3320.

B. A person whose license or privilege to drive a motor vehicle on the public highways has been revoked may apply for reinstatement of the person's license as provided by law after the cause of the revocation is removed or after expiration of the revocation period prescribed by law. The department may reinstate the person's driver license after the department reviews an applicant's driving record in this state or another state or other sufficient evidence to determine that:

1. All withdrawal actions are complete.
2. The applicant has not been convicted of or found responsible for any traffic violations within twelve months preceding application.
3. All other statutory requirements are satisfied.

C. The department shall not accept an application for reinstatement of a driver license until after the twelve month period prescribed in subsection B of this section has elapsed.

D. If the department reinstates a person's driver license or driving privilege for a revocation that is related to alcohol or other drugs, the department may accept an evaluation that was performed within the previous twelve months from a physician, a psychologist, a physician assistant, a registered nurse practitioner or a substance abuse counselor indicating that, in the opinion of the physician, psychologist, physician assistant, registered nurse practitioner or substance abuse counselor, the condition does not affect or impair the person's ability to safely operate a motor vehicle. For the purposes of reinstating a license or driving privilege pursuant to this article, the department may rely on the opinion of a physician, a psychologist, a physician assistant, a registered nurse practitioner or a substance abuse counselor.

E. Notwithstanding subsections A and B of this section:

1. A person whose license or privilege to drive is revoked pursuant to section 28-3304, subsection A, paragraph 1 or 10 is not entitled to have the person's license or privilege renewed or restored for three years.
2. A person whose license or privilege to drive is revoked pursuant to section 13-1209 is not entitled to have the person's license or privilege renewed or restored for the period of time ordered by the court.
3. If a license, permit or privilege to drive is revoked pursuant to section 28-661, subsection E–F, the license, permit or privilege may not be renewed or restored except as prescribed by section 28-661, subsections F–G.

4. A person whose license, permit or privilege to drive is revoked pursuant to section 28-661, subsection G–H is not entitled to have the person's license, permit or privilege renewed or restored for three years.

F. If an unlicensed driver commits an offense for which a driver license could be suspended, revoked or disqualified, the department shall not accept the unlicensed driver's application for a driver license for a period equal to the period of time that applies to a driver with a license. If the offense is one for which a driver license could be revoked, the department shall not accept the unlicensed driver's application for a driver license unless THE APPLICATION includes an evaluation from a physician, psychologist, physician assistant, registered nurse practitioner or substance abuse counselor on the habits and driving ability of the person and that the evaluator is satisfied that it is safe to grant the privilege of driving a motor vehicle on the public highways.

G. The expiration of a person's license during the period of time it is under suspension, revocation or disqualification does not invalidate or terminate the suspension, revocation or disqualification.

H. A person whose license or privilege to drive a motor vehicle on the public highways has been suspended pursuant to section 28-3306, subsection A, paragraph 5 or section 28-3314 may apply for a new license as provided by law after the cause for suspension is removed or after expiration of the suspension period prescribed by law if both of the following conditions are met:

1. The department is satisfied, after reviewing the medical condition and driving ability of the person, that it is safe to grant the person the privilege of driving a motor vehicle on the public highways.
2. If the person has a medical condition related to alcohol or other drugs, the department may accept an evaluation form from a physician, a psychologist, a physician assistant, a registered nurse practitioner or a substance abuse counselor indicating that, in the opinion of the physician, psychologist, physician assistant, registered nurse practitioner or substance abuse counselor, the condition does not affect or impair the person's ability to operate a motor vehicle in a safe manner.

I. For the purposes of this section:
1. "Physician" means a physician who is licensed pursuant to title 32, chapter 13, [14.] 17 or 29.
2. "Physician assistant" means a physician assistant who is licensed pursuant to title 32, chapter 25.
3. "Psychologist" means a psychologist who is licensed pursuant to title 32, chapter 19.1.
4. "Registered nurse practitioner" means a registered nurse practitioner who is licensed pursuant to title 32, chapter 15.
5. "Substance abuse counselor" has the same meaning prescribed in section 28-3005.
EXPLANATION OF BLEND
SECTION 28-3511

Laws 2021, Chapters 413 and 433

Laws 2021, Ch. 413, section 9  Effective September 29, 2021
  (Retroactive to July 1, 2021)

Laws 2021, Ch. 433, section 7  Effective September 29, 2021

Explanation

Since these two enactments are compatible, the Laws 2021, Ch. 413 and Ch. 433 text changes to section 28-3511 are blended in the form shown on the following pages.
28-3511. Removal and immobilization or impoundment of vehicle; Arizona crime information center database

A. A peace officer shall cause the removal and either immobilization or impoundment of a vehicle if the peace officer determines that:

1. A person is driving the vehicle while any of the following applies:
   (a) Except as otherwise provided in this subdivision, the person's driving privilege is revoked for any reason. A peace officer shall not cause the removal and either immobilization or impoundment of a vehicle pursuant to this subdivision if the person's privilege to drive is valid in this state.
   (b) The person has not ever been issued a valid driver license or permit by this state and the person does not produce evidence of ever having a valid driver license or permit issued by another jurisdiction. This subdivision does not apply to the operation of an implement of husbandry.
   (c) The person is subject to an ignition interlock device requirement pursuant to chapter 4 of this title and the person is operating a vehicle without a functioning certified ignition interlock device. This subdivision does not apply to the operation of a vehicle due to a substantial emergency as defined in section 28-1464.
   (d) In furtherance of the illegal presence of an alien in the United States and in violation of a criminal offense, the person is transporting or moving or attempting to transport or move an alien in this state in a vehicle if the person knows or recklessly disregards the fact that the alien has come to, has entered or remains in the United States in violation of law.
   (e) The person is concealing, harboring or shielding or attempting to conceal, harbor or shield from detection an alien in this state in a vehicle if the person knows or recklessly disregards the fact that the alien has come to, entered or remains in the United States in violation of law.

2. A PERSON IS DRIVING A VEHICLE IN VIOLATION OF SECTION 28-693 AND THE PEACE OFFICER REASONABLY BELIEVES THAT ALLOWING THE PERSON TO CONTINUE DRIVING THE VEHICLE WOULD EXPOSE OTHER PERSONS TO THE RISK OF SERIOUS BODILY INJURY OR DEATH.

3. A PERSON IS DRIVING A VEHICLE IN VIOLATION OF SECTION 28-708 AND THE PEACE OFFICER REASONABLY BELIEVES THAT ALLOWING THE PERSON TO CONTINUE DRIVING THE VEHICLE WOULD EXPOSE OTHER PERSONS TO THE RISK OF SERIOUS BODILY INJURY OR DEATH.

4. A PERSON IS OBSTRUCTING A HIGHWAY OR OTHER PUBLIC THOROUGHFARE IN VIOLATION OF SECTION 13-2906 AND THE PEACE OFFICER REASONABLY BELIEVES THAT ALLOWING THE PERSON TO CONTINUE DRIVING THE VEHICLE WOULD EXPOSE OTHER PERSONS TO THE RISK OF SERIOUS BODILY INJURY OR DEATH.

5. The vehicle is displayed for sale or for transfer of ownership with a vehicle identification number that has been destroyed, removed, covered, altered or defaced.
B. A peace officer shall cause the removal and impoundment of a vehicle if the peace officer determines that a person is driving the vehicle and if all of the following apply:

1. The person’s driving privilege is canceled or revoked for any reason or the person has not ever been issued a driver license or permit by this state and the person does not produce evidence of ever having a driver license or permit issued by another jurisdiction.

2. The person is not in compliance with the financial responsibility requirements of chapter 9, article 4 of this title.

3. The person is driving a vehicle that is involved in an accident that results in either property damage or injury to or death of another person.

C. Except as provided in subsection D of this section, while a peace officer has control of the vehicle the peace officer shall cause the removal and either immobilization or impoundment of the vehicle if the peace officer has probable cause to arrest the driver of the vehicle for a violation of section 4-244, paragraph 34 or section 28-1382 or 28-1383.

D. A peace officer shall not cause the removal and either the immobilization or impoundment of a vehicle pursuant to subsection C of this section if all of the following apply:

1. The peace officer determines that the vehicle is currently registered and that the driver or the vehicle is in compliance with the financial responsibility requirements of chapter 9, article 4 of this title.

2. The spouse of the driver ANOTHER PERSON is with the driver at the time of the arrest.

3. The peace officer has reasonable grounds to believe that the spouse of OTHER PERSON WHO IS WITH the driver AT THE TIME OF THE ARREST MEETS ALL OF THE FOLLOWING:
   (a) Has a valid driver license.
   (b) Is not impaired by intoxicating liquor, any drug, a vapor releasing substance containing a toxic substance or any combination of liquor, drugs or vapor releasing substances.
   (c) Does not have any spirituous liquor in the spouse’s PERSON’S body if the spouse PERSON is under twenty-one years of age.

4. The spouse OTHER PERSON WHO IS WITH THE DRIVER AT THE TIME OF THE ARREST notifies the peace officer that the spouse PERSON will drive the vehicle from the place of arrest to the driver’s home or other place of safety.

5. The spouse OTHER PERSON drives the vehicle as prescribed by paragraph 4 of this subsection.

E. Except as provided in subsection H of this section and as otherwise provided in this article, a vehicle that is removed and either immobilized or impounded pursuant to subsection A, B or C of this section shall be immobilized or impounded for thirty TWENTY days. An insurance company does not have a duty to pay any benefits for charges or fees for immobilization or impoundment.

F. The owner of a vehicle that is removed and either immobilized or impounded pursuant to subsection A, B or C of this section, the spouse of the owner and each person who has provided the department with indicia of ownership as prescribed in section 28-3514 or other interest in the vehicle
that exists immediately before the immobilization or impoundment shall be provided with an opportunity for an immobilization or poststorage hearing pursuant to section 28-3514.

G. A law enforcement agency that employs the peace officer who removes and either immobilizes or impounds a vehicle pursuant to this section shall enter information about the removal and either immobilization or impoundment of the vehicle in the Arizona crime information center database within three business days after the removal and either immobilization or impoundment.

H. A VEHICLE THAT IS REMOVED AND EITHER IMMobilIZED OR IMPounded PURSUANT TO SUBSECTION A, PARAGRAPH 4 OF THIS SECTION SHALL BE IMMobilIZED OR IMPounded FOR SEVEN DAYS.
EXPLANATION OF BLEND
SECTION 28-3512

Laws 2021, Chapters 413 and 433

Laws 2021, Ch. 413, section 10  Effective September 29, 2021
(Retroactive to July 1, 2021)

Laws 2021, Ch. 433, section 8  Effective September 29, 2021

Explanation

Since these two enactments are compatible, the Laws 2021, Ch. 413 and Ch. 433 text changes to section 28-3512 are blended in the form shown on the following pages.

The Laws 2021, chapter 433 version of section 28-3512 made a technical change to subsection H in a different manner than the Ch. 413 version. Since this would not produce a substantive change, the blend version reflects the Ch. 413 version.
28-3512. **Release of vehicle: civil penalties: definition**

A. An immobilizing or impounding agency shall release a vehicle—before the end of the thirty-day immobilization or impoundment period—as follows:

1. To the registered owner, if the vehicle is a stolen vehicle.
2. To the registered owner, if the vehicle is subject to bailment and is driven by an employee of a business establishment, including a parking service or repair garage, who is subject to section 28-3511, subsection A, B or C.
3. To the registered owner, if the owner was operating the vehicle at the time of removal and either immobilization or impoundment and presents proof satisfactory to the immobilizing or impounding agency—that the OWNER HAS A VALID DRIVER LICENSE OR THE owner's driving privilege has been reinstated.
4. To the registered owner, if all of the following apply:
   (a) The owner or the owner's agent was not the person driving the vehicle pursuant to section 28-3511, subsection A.
   (b) The owner or the owner's agent is in the business of renting motor vehicles without drivers.
   (c) The vehicle is registered pursuant to section 28-2166.
   (d) There was a rental agreement in effect at the time of the immobilization or impoundment.
5. Except as provided in paragraph 7 of this subsection, to the spouse of the registered owner or any person who is identified as an owner of the vehicle on the records of the department at the time of removal and either immobilization or impoundment, if the spouse or person was not the driver of the vehicle at the time of removal and either immobilization or impoundment and the spouse or person enters into an agreement with the immobilizing or impounding agency that stipulates that if the spouse or person allows a driver who does not have a valid driving privilege or a driver who commits a violation that causes the spouse’s or person's vehicle to be removed and either immobilized or impounded pursuant to this article within one year after any agreement is signed by an immobilizing or impounding agency, the spouse or person will not be eligible to obtain release of the spouse’s or person's—vehicle before the end of the thirty-day immobilization or impoundment period.

6. To the motor vehicle dealer, if the vehicle is owned by a motor vehicle dealer who has paid fees pursuant to section 28-4302 and is driven by a customer, potential customer or employee of the motor vehicle dealer and the motor vehicle dealer has provided to the immobilizing or impounding agency indicia of the motor vehicle dealer's ownership of the vehicle, including a certificate of title or a manufacturer-issued certificate or statement of origin.
7. To any person who is identified as an owner of the vehicle on the records of the department at the time of removal and either immobilization or impoundment, if the vehicle is a commercial motor vehicle, a street sweeper or heavy equipment as defined in section 28-854 and the person was not the driver of the vehicle at the time of removal and either immobilization or impoundment.

B. A vehicle shall not be released pursuant to subsection A of this section except pursuant to an immobilization or a poststorage hearing under section 28-3514 or if all of the following are presented to the immobilizing or impounding agency:

1. The owner's or owner's spouse's currently valid driver license issued by this state or the owner's or owner's spouse's state of domicile.

2. Proof of current vehicle registration or a valid salvage or dismantle certificate of title.

3. Proof that the vehicle is in compliance with the financial responsibility requirements of chapter 9, article 4 of this title.

4. If the person is required by the department to install a certified ignition interlock device on the vehicle, proof of installation of a functioning certified ignition interlock device in the vehicle. The impounding agency, storage yard, facility, person or agency having physical possession of the vehicle shall allow access during normal business hours to the impounded vehicle for the purpose of installing a certified ignition interlock device. The impounding agency, storage yard, facility, person or agency having physical possession of the vehicle shall not charge any fee or require compensation for providing access to the vehicle or for the installation of the certified ignition interlock device.

C. The owner or the owner's spouse if the vehicle is released to the owner's spouse is responsible for paying all immobilization, towing and storage charges related to the immobilization or impoundment of the vehicle and any administrative charges established pursuant to section 28-3513, unless the vehicle is stolen and the theft was reported to the appropriate law enforcement agency. If the vehicle is stolen and the theft was reported to the appropriate law enforcement agency, the operator of the vehicle at the time of immobilization or impoundment is responsible for all immobilization, towing, storage and administrative charges.

D. Before the end of the thirty-day immobilization or impoundment period, the immobilizing or impounding agency shall release a vehicle to a person, other than the owner, identified on the department's record as having an interest in the vehicle immediately before the immobilization or impoundment if all of the following conditions are met:

1. The person is either of the following:
   (a) In the business of renting motor vehicles without drivers and the vehicle is registered pursuant to section 28-2166.
   (b) A motor vehicle dealer, bank, credit union or acceptance corporation or any other licensed financial institution legally operating in this state or is another person who is not the owner and
who holds a security interest in the vehicle immediately before the immobilization or impoundment.

2. The person pays all immobilization, towing and storage charges related to the immobilization or impoundment of the vehicle and any administrative charges established pursuant to section 28-3513 unless the vehicle is stolen and the theft was reported to the appropriate law enforcement agency. If the vehicle is stolen and the theft was reported to the appropriate law enforcement agency, the operator of the vehicle at the time of immobilization or impoundment is responsible for all immobilization, towing, storage and administrative charges.

3. The person presents foreclosure documents or an affidavit of repossession of the vehicle.

4. The person requesting release of the vehicle was not the person driving the vehicle at the time of removal and immobilization or impoundment.

E. Before a person described in subsection D of this section releases the vehicle to the owner who was operating the vehicle at the time of removal and immobilization or impoundment, the person described in subsection D of this section shall require the owner to present and shall retain for a period of at least three years from the date of releasing the vehicle a copy of all of the following:

1. A driver license issued by this state or the owner's or owner's agent's state of domicile.

2. A current vehicle registration or a valid salvage or dismantle certificate of title.

3. Evidence that the vehicle is in compliance with the financial responsibility requirements of chapter 9, article 4 of this title.

F. The person described in subsection D of this section may require the owner to pay charges that the person incurred in connection with obtaining custody of the vehicle, including all immobilization, towing and storage charges that are related to the immobilization or impoundment of the vehicle and any administrative charges that are established pursuant to section 28-3513.

G. A vehicle shall not be released after the end of the thirty-day immobilization or impoundment period unless the owner or owner's agent presents all of the following to the impounding or immobilizing agency:

1. A valid driver license issued by this state or by the owner's or owner's agent's state of domicile.

2. A current vehicle registration or a valid salvage or dismantle certificate of title.

3. Evidence that the vehicle is in compliance with the financial responsibility requirements of chapter 9, article 4 of this title.

4. If the person is required by the department to install a certified ignition interlock device on the vehicle, proof of installation of a functioning certified ignition interlock device in the vehicle. The impounding agency, storage yard, facility, person or agency having physical possession of the vehicle shall allow access during normal business hours to the impounded vehicle for the purpose of installing a certified ignition interlock device. The impounding agency, storage yard, facility, person or agency having physical possession of the
vehicle shall not charge any fee or require compensation for providing access to the vehicle or for the installation of the certified ignition interlock device.

H. The storage charges relating to the impoundment of a vehicle pursuant to this section shall be subject to a contractual agreement between the impounding agency and a towing firm for storage services pursuant to section 41-1830.51 and shall be fifteen dollars [$25] for each day of storage, including any time the vehicle remains in storage after the end of the thirty-day impoundment period.

I. The immobilizing or impounding agency shall have no lien or possessory interest in a stolen vehicle if the theft was reported to the appropriate law enforcement agency. The immobilizing or impounding agency shall release the vehicle to the owner or person other than the owner as identified in subsection D of this section even if the operator at the time of immobilization or impoundment has not paid all immobilization, towing, storage and administrative charges.

J. A person who enters into an agreement pursuant to subsection A, paragraph 5 of this section and who allows another person to operate the vehicle in violation of the agreement is responsible for a civil traffic violation and shall pay a civil penalty of at least two hundred fifty dollars $250.

K. A person described in subsection D, paragraph 1 of this section who violates subsection E of this section is responsible for a civil traffic violation and shall pay a civil penalty of at least two hundred fifty dollars $250.

L. For the purposes of this section, "certified ignition interlock device" has the same meaning prescribed in section 28-1301.
EXPLANATION OF BLEND
SECTION 28-3514

Laws 2021, Chapters 413 and 433

Laws 2021, Ch. 413, section 11  Effective September 29, 2021
   (Retroactive to July 1, 2021)

Laws 2021, Ch. 433, section 9  Effective September 29, 2021

Explanation

Since these two enactments are identical, the Laws 2021, Ch. 413 and Ch. 433 text changes to section 28-3514 are blended in the form shown on the following pages.
28-3514. Hearings: notice of immobilization or storage: definition

A. If a peace officer removes and either immobilizes or impounds a vehicle pursuant to section 28-3511, the immobilizing or impounding agency may provide the owner, the spouse of the owner and any other person providing indicia of ownership or other interest in the vehicle immediately before the immobilization or impoundment with the opportunity for an immobilization or poststorage hearing to determine the validity of the immobilization or storage or consider any mitigating circumstances relating to the immobilization or storage or release of the vehicle before the end of the thirty-day immobilization or impoundment period. If the immobilizing or impounding agency provides the opportunity for an immobilization or poststorage hearing, the immobilizing or impounding agency shall conduct the hearing in accordance with any of the following:

1. In the immobilizing or impounding agency's jurisdiction.
2. Telephonically.
3. Pursuant to procedures prescribed by the immobilizing or impounding agency to transfer the authority to conduct the immobilization or poststorage hearing to a law enforcement agency in the jurisdiction in which the owner, the spouse of the owner, the owner's agent or any person identified in the department's record as having an interest in the vehicle immediately before the immobilization or impoundment resides.

B. If the immobilizing or impounding agency does not provide an opportunity for an immobilization or poststorage hearing, a justice court shall conduct the immobilization or poststorage hearing. If an immobilization or poststorage hearing is conducted by a justice court, the immobilizing or impounding agency shall appear and show evidence. Immobilization or poststorage hearings conducted by a justice court shall be considered as civil filings for the purposes of judicial productivity credits.

C. Within three business days after immobilization or impoundment, excluding weekends and holidays, the immobilizing or impounding agency shall send a notice of storage by first class mail to each person, other than the owner, identified on the department's record as having an interest in the vehicle or who has provided the department with indicia of ownership or other interest in the vehicle that exists immediately before the immobilization or impoundment. Service of notice of immobilization or storage is complete on mailing. If within three business days after immobilization or impoundment, excluding weekends and holidays, the immobilizing or impounding agency fails to notify a person, other than the owner, identified on the department's record as having an interest in the vehicle immediately before the immobilization or impoundment, the immobilizing agency or the person in possession of the vehicle shall not charge any administrative fees or more than fifteen days' immobilization or
impoundment when the person redeems the impounded vehicle or has the immobilization device removed from the vehicle.

D. Within three business days after immobilization or impoundment, excluding weekends and holidays, the immobilizing or impounding agency shall mail or personally deliver notice of immobilization or storage to the owner of the vehicle.

E. The notice of immobilization or storage shall include all of the following information:
   1. A statement that the vehicle was immobilized or impounded.
   2. The name, address and telephone number of the immobilizing or impounding agency providing the notice.
   3. The name, address and telephone number of the immobilizing or impounding agency or justice court that will provide the immobilization or poststorage hearing.
   4. The location of the place of storage and a description of the vehicle, including, if available, the manufacturer, model, license plate number and mileage of the vehicle.
   5. A statement that in order to receive an immobilization or poststorage hearing the owner, the spouse of the owner, the owner's agent or the person identified in the department's record as having an interest in the vehicle immediately before the immobilization or impoundment, within ten days after the date on the notice, shall request an immobilization or poststorage hearing by contacting the immobilizing or impounding agency in person or in writing or by filing a request with the justice court if the impounding agency does not provide for a hearing and paying a fee equal to the fee established pursuant to section 22-281 for a small claims answer.
   6. A statement that if the immobilizing or impounding agency does not provide the opportunity for an immobilization or poststorage hearing, the owner, the spouse of the owner, the owner's agent or any person identified in the department's record as having an interest in the vehicle or a person who has provided the department with indicia of ownership or other interest in the vehicle that exists immediately before the immobilization or impoundment may request that the immobilization or poststorage hearing be conducted by a justice court in the immobilizing or impounding agency's jurisdiction or the jurisdiction in which the owner, the spouse of the owner, the owner's agent or the person identified in the department's record as having an interest in the vehicle immediately before the immobilization or impoundment resides.

F. The immobilization or poststorage hearing shall be conducted by the immobilizing or impounding agency or justice court within five business days, excluding weekends and holidays, after receipt of the request.

G. Failure of the owner, the spouse of the owner or other person or the other person's agent to request an immobilization or poststorage hearing within ten days after the date on the notice prescribed in subsection E of this section or to attend a scheduled hearing satisfies the immobilization or poststorage hearing requirement.

H. The immobilizing or impounding agency employing the person who directed the immobilization or storage is responsible for the costs incurred for immobilization, towing and storage if it is determined in the
immobilization or poststorage hearing that reasonable grounds for the immobilization or impoundment and storage are not established.

I. In compliance with the requirements of this section, the vehicle owner, the vehicle owner's spouse or another person who has an interest in the vehicle or who has provided the department with indicia of ownership or other interest in the vehicle that exists immediately before the immobilization or impoundment shall have an opportunity for a single poststorage hearing for the release of the vehicle by either the immobilizing or impounding agency or a justice court but not both.

J. For the purposes of this section, "indicium of ownership" includes a certificate of title, a manufacturer-issued certificate or a statement of origin or other similar document.
EXPLANATION OF BLEND
SECTION 28-6501


Laws 2021, Ch. 136, section 4          Effective September 29, 2021
Laws 2021, Ch. 143, section 4          Effective September 29, 2021
Laws 2021, Ch. 153, section 4          Effective September 29, 2021
Laws 2021, Ch. 175, section 4          Effective September 29, 2021
Laws 2021, Ch. 191, section 4          Effective September 29, 2021
Laws 2021, Ch. 215, section 4          Effective September 29, 2021
Laws 2021, Ch. 253, section 4          Effective September 29, 2021
Laws 2021, Ch. 255, section 4          Effective September 29, 2021
Laws 2021, Ch. 270, section 4          Effective September 29, 2021
Laws 2021, Ch. 371, section 4          Effective September 29, 2021

Explanation

Since these ten enactments are compatible, the Laws 2021, Ch. 136, Ch. 143, Ch. 153, Ch. 175, Ch. 191, Ch. 215, Ch. 253, Ch. 255, Ch. 270 and Ch. 371 text changes to section 28-6501 are blended in the form shown on the following page.
28-6501. Definition of highway user revenues

In this article, unless the context otherwise requires or except as otherwise provided by statute, "highway user revenues" means all monies received in this state from licenses, taxes, penalties, interest and fees authorized by the following:

1. Chapters 2, 7, 8 and 15 of this title, except for:
   (a) The special plate administration fees prescribed in sections 28-2404, 28-2407, 28-2412 through 28-2460, 28-2470.09 and 28-2514.
2. Section 28-1177.
3. Chapters 10 and 11 of this title.
4. Chapter 16, articles 1, 2 and 4 of this title, except as provided in sections 28-5926 and 28-5927.
EXPLANATION OF BLEND
SECTION 28-6991


Laws 2021, Ch. 136, section 5  Effective September 29, 2021
Laws 2021, Ch. 143, section 5  Effective September 29, 2021
Laws 2021, Ch. 153, section 5  Effective September 29, 2021
Laws 2021, Ch. 175, section 5  Effective September 29, 2021
Laws 2021, Ch. 191, section 5  Effective September 29, 2021
Laws 2021, Ch. 215, section 5  Effective September 29, 2021
Laws 2021, Ch. 253, section 5  Effective September 29, 2021
Laws 2021, Ch. 255, section 5  Effective September 29, 2021
Laws 2021, Ch. 270, section 5  Effective September 29, 2021
Laws 2021, Ch. 371, section 5  Effective September 29, 2021
Laws 2021, Ch. 413, section 18  Effective September 29, 2021
(Retroactive to July 1, 2021)

Explanation

Since these eleven enactments are compatible, the Laws 2021, Ch. 136, Ch. 143, Ch. 153, Ch. 175, Ch. 191, Ch. 215, Ch. 253, Ch. 255, Ch. 270, Ch. 371 and Ch. 413 text changes to section 28-6991 are blended in the form shown on the following pages.
28-6991. State highway fund: sources
The state highway fund is established that consists of:
1. Monies distributed from the Arizona highway user revenue fund pursuant to chapter 18 of this title.
2. Monies appropriated by the legislature.
3. Monies received from donations for the construction, improvement or maintenance of state highways or bridges. These monies shall be credited to a special account and shall be spent only for the purpose indicated by the donor.
4. Monies received from counties or cities under cooperative agreements, including proceeds from bond issues. The state treasurer shall deposit these monies to the credit of the fund in a special account on delivery to the treasurer of a concise written agreement between the department and the county or city stating the purposes for which the monies are surrendered by the county or city, and these monies shall be spent only as stated in the agreement.
5. Monies received from the United States under an act of Congress to provide aid for the construction of rural post roads, but monies received on projects for which the monies necessary to be provided by this state are wholly derived from sources mentioned in paragraphs 2 and 3 of this section shall be allotted by the department and deposited by the state treasurer in the special account within the fund established for each project. On completion of the project, on the satisfaction and discharge in full of all obligations of any kind created and on request of the department, the treasurer shall transfer the unexpended balance in the special account for the project into the state highway fund, and the unexpended balance and any further federal aid thereafter received on account of the project may be spent under the general provisions of this title.
6. Monies in the custody of an officer or agent of this state from any source that is to be used for the construction, improvement or maintenance of state highways or bridges.
7. Monies deposited in the state general fund and arising from the disposal of state personal property belonging to the department.
8. Receipts from the sale or disposal of any or all other property held by the department and purchased with state highway monies.
10. Monies distributed pursuant to section 28-5808, subsection B, paragraph 2, subdivision (d).
11. Monies deposited pursuant to sections 28-1143, 28-2353 and 28-3003.
12. Except as provided in section 28-5101, the following monies:
   (a) Monies deposited pursuant to section 28-2206 and section 28-5808, 
       subsection B, paragraph 2, subdivision (e).
   (b) $1 of each registration fee and $1 of each title fee collected 
       pursuant to section 28-2003.
   (c) $2 of each late registration penalty collected by the director 
       pursuant to section 28-2162.
   (d) The air quality compliance fee collected pursuant to section 
       49-542.
   (e) The special plate administration fees collected pursuant to 
       sections 28-2404, 28-2407, 28-2412 through 28-2416, 28-2416.01, 28-2417 
       through 28-2418 28-2470.09 and 28-2514.
   (f) Monies collected pursuant to sections 28-372, 28-2155 and 28-2156 
       if the director is the registering officer.

13. Monies deposited pursuant to chapter 5, article 5 of this title.

14. Donations received pursuant to section 28-2269.

15. Dealer and registration monies collected pursuant to section 

16. Abandoned vehicle administration monies deposited pursuant to 

17. Monies deposited pursuant to section 28-710, subsection D, 
   paragraph 2.

18. Monies deposited pursuant to section 28-2065.

19. Monies deposited pursuant to section 28-7311.

20. Monies deposited pursuant to section 28-7059.

21. Monies deposited pursuant to section 28-1105.

22. Monies deposited pursuant to section 28-2448, subsection D.

23. Monies deposited pursuant to section 28-3415.

24. Monies deposited pursuant to section 28-3002, subsection A, 
   paragraph 14.

25. Monies deposited pursuant to section 28-7316.

26. Monies deposited pursuant to section 28-4302.

27. Monies deposited pursuant to section 28-3416.

28. Monies deposited pursuant to section 28-4504.

29. Monies deposited pursuant to section 28-2098.

30. MONIES DEPOSITED PURSUANT TO SECTIONS 28-2321, 28-2324, 28-2325, 
EXPLANATION OF BLEND
SECTION 28-6993


Laws 2021, Ch. 136, section 6  Effective September 29, 2021
Laws 2021, Ch. 143, section 6  Effective September 29, 2021
Laws 2021, Ch. 153, section 6  Effective September 29, 2021
Laws 2021, Ch. 175, section 6  Effective September 29, 2021
Laws 2021, Ch. 191, section 6  Effective September 29, 2021
Laws 2021, Ch. 215, section 6  Effective September 29, 2021
Laws 2021, Ch. 253, section 6  Effective September 29, 2021
Laws 2021, Ch. 255, section 6  Effective September 29, 2021
Laws 2021, Ch. 270, section 6  Effective September 29, 2021
Laws 2021, Ch. 371, section 6  Effective September 29, 2021
Laws 2021, Ch. 413, section 19  Effective September 29, 2021
( Retroactive to July 1, 2021)

Explanation

Since these eleven enactments are compatible, the Laws 2021, Ch. 136, Ch. 143, Ch. 153, Ch. 175, Ch. 191, Ch. 215, Ch. 253, Ch. 255, Ch. 270, Ch. 371 and Ch. 413 text changes to section 28-6993 are blended in the form shown on the following pages.
28-6993. State highway fund: authorized uses
A. Except as provided in subsection B of this section and section 28-6538, the state highway fund shall be used for any of the following purposes in strict conformity with and subject to the budget as provided by this section and by sections 28-6997 through 28-7003:
1. To pay salaries, wages, necessary travel expenses and other expenses of officers and employees of the department and the incidental office expenses, including telegraph, telephone, postal and express charges and printing, stationery and advertising expenses.
2. To pay for both:
   (a) Equipment, supplies, machines, tools, department offices and laboratories established by the department.
   (b) The construction and repair of buildings or yards of the department.
3. To pay the cost of both:
   (a) Engineering, construction, improvement and maintenance of state highways and parts of highways forming state routes.
   (b) Highways under cooperative agreements with the United States that are entered into pursuant to this chapter and an act of Congress providing for the construction of rural post roads.
4. To pay land damages incurred by reason of establishing, opening, altering, relocating, widening or abandoning portions of a state route or state highway.
5. To reimburse the department revolving account.
6. To pay premiums on authorized indemnity bonds and on compensation insurance under the workers' compensation act.
7. To defray lawful expenses and costs required to administer and carry out the intent, purposes and provisions of this title, including repayment of obligations entered into pursuant to this title, payment of interest on obligations entered into pursuant to this title, repayment of loans and other financial assistance, including repayment of advances and interest on advances made to the department pursuant to section 28-7677, and payment of all other obligations and expenses of the board and department pursuant to chapter 21 of this title.
8. To pay lawful bills and charges incurred by the state engineer.
9. To acquire, construct or improve entry roads to state parks or roads within state parks.
10. To acquire, construct or improve entry roads to state prisons.
11. To pay the cost of relocating a utility facility pursuant to section 28-7156.
12. For the purposes provided in subsections C, D and E of this section and sections 28-1143, 28-2353 and 28-3003.
13. To pay the cost of issuing an Arizona centennial special plate pursuant to section 28-2448.
14. TO PAY FOR ALL OF THE FOLLOWING:
(a) THE ENFORCEMENT BY THE DEPARTMENT OF PUBLIC SAFETY AND THE
DEPARTMENT OF TRANSPORTATION OF VEHICLE SAFETY REQUIREMENTS WITHIN
TWENTY-FIVE MILES OF THE BORDER BETWEEN THIS STATE AND MEXICO.
(b) COSTS RELATED TO PROCURING ELECTRONIC EQUIPMENT, AUTOMATED
SYSTEMS OR IMPROVEMENTS TO EXISTING ELECTRONIC EQUIPMENT OR AUTOMATED
SYSTEMS FOR RELIEVING VEHICLE CONGESTION AT PORTS OF ENTRY ON THE BORDER
BETWEEN THIS STATE AND MEXICO.
(c) CONSTRUCTING, MAINTAINING AND UPGRADING TRANSPORTATION
FACILITIES, INCLUDING ROADS, STREETS AND HIGHWAYS, APPROVED BY THE BOARD
WITHIN TWENTY-FIVE MILES OF THE BORDER BETWEEN THIS STATE AND MEXICO.
(d) AS APPROVED BY THE BOARD, CONSTRUCTING AND MAINTAINING
TRANSPORTATION FACILITIES IN THE CANAMEX HIGH PRIORITY CORRIDOR AS DEFINED
IN SECTION 332 OF THE NATIONAL HIGHWAY SYSTEM DESIGNATION ACT OF 1995 (P.L.
104-59; 109 STAT. 568).
(e) ACTIVITIES OF THE DEPARTMENT THAT INCLUDE COLLECTING
TRANSPORTATION AND TRADE DATA IN THE UNITED STATES AND MEXICO FOR THE
PURPOSES OF CONSTRUCTING TRANSPORTATION FACILITIES, IMPROVING PUBLIC SAFETY,
IMPROVING TRUCK PROCESSING TIME AND RELIEVING CONGESTION AT PORTS OF ENTRY
ON THE BORDER BETWEEN THIS STATE AND MEXICO. THE DEPARTMENT MAY ENTER INTO
AN AGREEMENT WITH THE ARIZONA-MEXICO COMMISSION AND PROVIDE FUNDING TO THE
COMMISSION FOR THE PURPOSES OF THIS SUBDIVISION.
(f) A COMMITMENT OR INVESTMENT NECESSARY FOR THE DEPARTMENT OR
ANOTHER AGENCY OF THIS STATE TO OBTAIN FEDERAL MONIES THAT ARE DESIGNATED
FOR EXPENDITURE PURSUANT TO THIS SECTION.

B. For each fiscal year, the department of transportation shall
allocate and transfer monies in the state highway fund to the department of
public safety for funding a portion of highway patrol costs in eight
installments in each of the first eight months of a fiscal year that do not
exceed $10,000,000.

C. Subject to legislative appropriation, the department may use the
monies in the state highway fund as prescribed in section 28-6991,
paragraph 12 to carry out the duties imposed by this title for registration
or titling of vehicles, to operate joint title, registration and driver
licensing offices, to cover the administrative costs of issuing the air
quality compliance sticker, modifying the year validating tab and issuing
the windshield sticker and to cover expenses and costs in issuing special
plates pursuant to sections 28-2404, 28-2407, 28-2412 through 28-2468
28-2470.09 and 28-2514.

D. The department shall use monies deposited in the state highway
fund pursuant to chapter 5, article 5 of this title only as prescribed by
that article.

E. Monies deposited in the state highway fund pursuant to section
28-2269 shall be used only as prescribed by that section.

F. Monies deposited in the state highway fund pursuant to section
28-710, subsection D, paragraph 2 shall only be used for state highway work
zone traffic control devices.

G. The department may exchange monies distributed to the state
highway fund pursuant to section 28-6538, subsection A, paragraph 1 for
local government surface transportation program federal monies suballocated
to councils of government and metropolitan planning organizations if the local government scheduled to receive the federal monies concurs. An exchange of state highway fund monies pursuant to this subsection shall be in an amount that is at least equal to ninety percent of the federal obligation authority that exists in the project for which the exchange is proposed.

H. The department shall use monies deposited in the state highway fund pursuant to section 28-1105, subsection A, paragraph 2, subdivision (a) only for a transportation facility that is located within twenty drivable miles of the international port of entry and shall spend the monies proportionally based on the amount of total monies collected pursuant to section 28-1105, subsection A, paragraph 2, subdivision (a). For the purposes of this subsection, "transportation facility" means a highway or a state route or a county, city or town road that is used by a commercial vehicle or a commercial vehicle combination for which an axle fee is paid pursuant to section 28-5474.
EXPLANATION OF BLEND
SECTION 32-1401

Laws 2021, Chapters 61 and 320

Laws 2021, Ch. 61, section 4                      Effective September 29, 2021
Laws 2021, Ch. 320, section 6                      Effective May 5, 2021

Explanation

Since these two enactments are compatible, the Laws 2021, Ch. 61 and Ch. 320 text changes to section 32-1401 are blended in the form shown on the following pages.
32-1401. Definitions

In this chapter, unless the context otherwise requires:

1. "Active license" means a valid and existing license to practice medicine.
2. "Adequate records" means legible medical records, produced by hand or electronically, containing, at a minimum, sufficient information to identify the patient, support the diagnosis, justify the treatment, accurately document the results, indicate advice and cautionary warnings provided to the patient and provide sufficient information for another practitioner to assume continuity of the patient's care at any point in the course of treatment.
3. "Advisory letter" means a nondisciplinary letter to notify a licensee that either:
   (a) While there is insufficient evidence to support disciplinary action, the board believes that continuation of the activities that led to the investigation may result in further board action against the licensee.
   (b) The violation is a minor or technical violation that is not of sufficient merit to warrant disciplinary action.
   (c) While the licensee has demonstrated substantial compliance through rehabilitation or remediation that has mitigated the need for disciplinary action, the board believes that repetition of the activities that led to the investigation may result in further board action against the licensee.
4. "Approved hospital internship, residency or clinical fellowship program" means a program at a hospital that at the time the training occurred was legally incorporated and that had a program that was approved for internship, fellowship or residency training by the accreditation council for graduate medical education, the association of American medical colleges, the royal college of physicians and surgeons of Canada or any similar body in the United States or Canada approved by the board whose function is that of approving hospitals for internship, fellowship or residency training.
5. "Approved school of medicine" means any school or college offering a course of study that, on successful completion, results in the degree of doctor of medicine and whose course of study has been approved or accredited by an educational or professional association, recognized by the board, including the association of American medical colleges, the association of Canadian medical colleges or the American medical association.
6. "Board" means the Arizona medical board.
7. "Completed application" means that the applicant has supplied all required fees, information and correspondence requested by the board on forms and in a manner acceptable to the board.
8. "Direct supervision" means that a physician, physician assistant licensed pursuant to chapter 25 of this title or nurse practitioner certified pursuant to chapter 15 of this title is within the same room or office suite
as the medical assistant in order to be available for consultation regarding those tasks the medical assistant performs pursuant to section 32-1456.

9. "Dispense" means the delivery by a doctor of medicine of a prescription drug or device to a patient, except for samples packaged for individual use by licensed manufacturers or repackagers of drugs, and includes the prescribing, administering, packaging, labeling and security necessary to prepare and safeguard the drug or device for delivery.

10. "Doctor of medicine" means a natural person holding a license, registration or permit to practice medicine pursuant to this chapter.

11. "Full-time faculty member" means a physician who is employed full time as a faculty member while holding the academic position of assistant professor or a higher position at an approved school of medicine.

12. "Health care institution" means any facility as defined in section 36-401, any person authorized to transact disability insurance, as defined in title 20, chapter 6, article 4 or 5, any person who is issued a certificate of authority pursuant to title 20, chapter 4, article 9 or any other partnership, association or corporation that provides health care to consumers.

13. "Immediate family" means the spouse, natural or adopted children, father, mother, brothers and sisters of the doctor and the natural or adopted children, father, mother, brothers and sisters of the doctor's spouse.

14. "Letter of reprimand" means a disciplinary letter that is issued by the board and that informs the physician that the physician's conduct violates state or federal law and may require the board to monitor the physician.

15. "Limit" means taking a nondisciplinary action that alters the physician's practice or professional activities if the board determines that there is evidence that the physician is or may be mentally or physically unable to safely engage in the practice of medicine.

16. "Medical assistant" means an unlicensed person who meets the requirements of section 32-1456, has completed an education program approved by the board, assists in a medical practice under the supervision of a doctor of medicine, physician assistant or nurse practitioner and performs delegated procedures commensurate with the assistant's education and training but does not diagnose, interpret, design or modify established treatment programs or perform any functions that would violate any statute applicable to the practice of medicine.

17. "Medically incompetent" means a person who the board determines is incompetent based on a variety of factors, including:
   (a) A lack of sufficient medical knowledge or skills, or both, to a degree likely to endanger the health of patients.
   (b) When considered with other indications of medical incompetence, failing to obtain a scaled score of at least seventy-five percent on the written special purpose licensing examination.

18. "Medical peer review" means:
   (a) The participation by a doctor of medicine in the review and evaluation of the medical management of a patient and the use of resources for patient care.
   (b) Activities relating to a health care institution's decision to grant or continue privileges to practice at that institution.
19. "Medicine" means allopathic medicine as practiced by the recipient of a degree of doctor of medicine.

20. "Office based surgery" means a medical procedure conducted in a physician's office or other outpatient setting that is not part of a licensed hospital or licensed ambulatory surgical center.

21. "Physician" means a doctor of medicine who is licensed pursuant to this chapter.

22. "Practice of medicine" means the diagnosis, the treatment or the correction of or the attempt or the claim to be able to diagnose, treat or correct any and all human diseases, injuries, ailments, infirmities or deformities, physical or mental, real or imaginary, by any means, methods, devices or instrumentalities, except as the same may be among the acts or persons not affected by this chapter. The practice of medicine includes the practice of medicine alone or the practice of surgery alone, or both.

23. "Restrict" means taking a disciplinary action that alters the physician's practice or professional activities if the board determines that there is evidence that the physician is or may be medically incompetent or guilty of unprofessional conduct.

24. "Special purpose licensing examination" means an examination that is developed by the national board of medical examiners on behalf of the federation of state medical boards for use by state licensing boards to test the basic medical competence of physicians who are applying for licensure and who have been in practice for a considerable period of time in another jurisdiction and to determine the competence of a physician who is under investigation by a state licensing board.

25. "Teaching hospital's accredited graduate medical education program" means that the hospital is incorporated and has an internship, fellowship or residency training program that is accredited by the accreditation council for graduate medical education, the American medical association, the association of American medical colleges, the royal college of physicians and surgeons of Canada or a similar body in the United States or Canada that is approved by the board and whose function is that of approving hospitals for internship, fellowship or residency training.

26. "Teaching license" means a valid license to practice medicine as a full-time faculty member of an approved school of medicine or a teaching hospital's accredited graduate medical education program.

27. "Unprofessional conduct" includes the following, whether occurring in this state or elsewhere:
   (a) Violating any federal or state laws, rules or regulations applicable to the practice of medicine.
   (b) Intentionally disclosing a professional secret or intentionally disclosing a privileged communication except as either act may otherwise be required by law.
   (c) Committing false, fraudulent, deceptive or misleading advertising by a doctor of medicine or the doctor's staff, employer or representative.
   (d) Committing a felony, whether or not involving moral turpitude, or a misdemeanor involving moral turpitude. In either case, conviction by any court of competent jurisdiction or a plea of no contest is conclusive evidence of the commission.
   (e) Failing or refusing to maintain adequate records on a patient.
(f) Exhibiting a pattern of using or being under the influence of alcohol or drugs or a similar substance while practicing medicine or to the extent that judgment may be impaired and the practice of medicine detrimentally affected.

(g) Using controlled substances except if prescribed by another physician for use during a prescribed course of treatment.

(h) Prescribing or dispensing controlled substances to members of the physician's immediate family.

(i) Prescribing, dispensing or administering schedule II controlled substances as defined in PRESCRIBED BY section 36-2513 OR THE RULES ADOPTED PURSUANT TO SECTION 36-2513, including amphetamines and similar schedule II sympathomimetic drugs in the treatment of exogenous obesity for a period in excess of thirty days in any one year, or the nontherapeutic use of injectable amphetamines.

(j) Prescribing, dispensing or administering any controlled substance or prescription-only drug for other than accepted therapeutic purposes.

(k) Dispensing a schedule II controlled substance that is an opioid, except as provided in section 32-1491.

(l) Signing a blank, undated or predated prescription form.

(m) Committing conduct that the board determines is gross malpractice, repeated malpractice or any malpractice resulting in the death of a patient.

(n) Representing that a manifestly incurable disease or infirmity can be permanently cured, or that any disease, ailment or infirmity can be cured by a secret method, procedure, treatment, medicine or device, if this is not true.

(o) Refusing to divulge to the board on demand the means, method, procedure, modality of treatment or medicine used in the treatment of a disease, injury, ailment or infirmity.

(p) Having action taken against a doctor of medicine by another licensing or regulatory jurisdiction due to that doctor's mental or physical inability to engage safely in the practice of medicine or the doctor's medical incompetence or for unprofessional conduct as defined by that jurisdiction and that corresponds directly or indirectly to an act of unprofessional conduct prescribed by this paragraph. The action taken may include refusing, denying, revoking or suspending a license by that jurisdiction or a surrendering of a license to that jurisdiction, otherwise limiting, restricting or monitoring a licensee by that jurisdiction or placing a licensee on probation by that jurisdiction.

(q) Having sanctions imposed by an agency of the federal government, including restricting, suspending, limiting or removing a person from the practice of medicine or restricting that person's ability to obtain financial remuneration.

(r) Committing any conduct or practice that is or might be harmful or dangerous to the health of the patient or the public.

(s) Violating a formal order, probation, consent agreement or stipulation issued or entered into by the board or its executive director under this chapter.

(t) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any provision of this chapter.
(u) Knowingly making any false or fraudulent statement, written or oral, in connection with the practice of medicine or if applying for privileges or renewing an application for privileges at a health care institution.

(v) Charging a fee for services not rendered or dividing a professional fee for patient referrals among health care providers or health care institutions or between these providers and institutions or a contractual arrangement that has the same effect. This subdivision does not apply to payments from a medical researcher to a physician in connection with identifying and monitoring patients for a clinical trial regulated by the United States food and drug administration.

(w) Obtaining a fee by fraud, deceit or misrepresentation.

(x) Charging or collecting a clearly excessive fee. In determining whether a fee is clearly excessive, the board shall consider the fee or range of fees customarily charged in this state for similar services in light of modifying factors such as the time required, the complexity of the service and the skill requisite to perform the service properly. This subdivision does not apply if there is a clear written contract for a fixed fee between the physician and the patient that has been entered into before the provision of the service.

(y) Committing conduct that is in violation of section 36-2302.

(z) Using experimental forms of diagnosis and treatment without adequate informed patient consent, and without conforming to generally accepted experimental criteria, including protocols, detailed records, periodic analysis of results and periodic review by a medical peer review committee as approved by the United States food and drug administration or its successor agency.

(aa) Engaging in sexual conduct with a current patient or with a former patient within six months after the last medical consultation unless the patient was the licensee's spouse at the time of the contact or, immediately preceding the physician-patient relationship, was in a dating or engagement relationship with the licensee. For the purposes of this subdivision, "sexual conduct" includes:

(i) Engaging in or soliciting sexual relationships, whether consensual or nonconsensual.

(ii) Making sexual advances, requesting sexual favors or engaging in any other verbal conduct or physical contact of a sexual nature.

(iii) Intentionally viewing a completely or partially disrobed patient in the course of treatment if the viewing is not related to patient diagnosis or treatment under current practice standards.

(bb) Procuring or attempting to procure a license to practice medicine or a license renewal by fraud, by misrepresentation or by knowingly taking advantage of the mistake of another person or an agency.

(cc) Representing or claiming to be a medical specialist if this is not true.

(dd) Maintaining a professional connection with or lending one's name to enhance or continue the activities of an illegal practitioner of medicine.

(ee) Failing to furnish information in a timely manner to the board or the board's investigators or representatives if legally requested by the board.
(ff) Failing to allow properly authorized board personnel on demand to examine and have access to documents, reports and records maintained by the physician that relate to the physician's medical practice or medically related activities.

(gg) Knowingly failing to disclose to a patient on a form that is prescribed by the board and that is dated and signed by the patient or guardian acknowledging that the patient or guardian has read and understands that the doctor has a direct financial interest in a separate diagnostic or treatment agency or in nonroutine goods or services that the patient is being prescribed if the prescribed treatment, goods or services are available on a competitive basis. This subdivision does not apply to a referral by one doctor of medicine to another doctor of medicine within a group of doctors of medicine practicing together.

(hh) Using chelation therapy in the treatment of arteriosclerosis or as any other form of therapy, with the exception of treatment of heavy metal poisoning, without:

(i) Adequate informed patient consent.
(ii) Conforming to generally accepted experimental criteria, including protocols, detailed records, periodic analysis of results and periodic review by a medical peer review committee.
(iii) Approval by the United States food and drug administration or its successor agency.

(ii) Prescribing, dispensing or administering anabolic-androgenic steroids to a person for other than therapeutic purposes.

(jj) Exhibiting a lack of or inappropriate direction, collaboration or direct supervision of a medical assistant or a licensed, certified or registered health care provider employed by, supervised by or assigned to the physician.

(kk) Knowingly making a false or misleading statement to the board or on a form required by the board or in a written correspondence, including attachments, with the board.

(ll) Failing to dispense drugs and devices in compliance with article 6 of this chapter.

(mm) Committing conduct that the board determines is gross negligence, repeated negligence or negligence resulting in harm to or the death of a patient.

(nn) Making a representation by a doctor of medicine or the doctor's staff, employer or representative that the doctor is boarded or board certified if this is not true or the standing is not current or without supplying the full name of the specific agency, organization or entity granting this standing.

(oo) Refusing to submit to a body fluid examination or any other examination known to detect the presence of alcohol or other drugs as required by the board pursuant to section 32-1452 or pursuant to a board investigation into a doctor of medicine's alleged substance abuse.

(pp) Failing to report in writing to the Arizona medical board or the Arizona regulatory board of physician assistants any evidence that a doctor of medicine or a physician assistant is or may be medically incompetent, guilty of unprofessional conduct or mentally or physically unable to safely practice medicine or to perform as a physician assistant.
(qq) As a physician who is the chief executive officer, the medical director or the medical chief of staff of a health care institution, failing to report in writing to the board that the hospital privileges of a doctor of medicine have been denied, revoked, suspended, supervised or limited because of actions by the doctor that appear to show that the doctor is or may be medically incompetent, is or may be guilty of unprofessional conduct or is or may be unable to engage safely in the practice of medicine.

(rr) Claiming to be a current member of the board or its staff or a board medical consultant if this is not true.

(ss) Failing to make patient medical records in the physician's possession promptly available to a physician assistant, a nurse practitioner, a person licensed pursuant to this chapter or a podiatrist, chiropractor, naturopathic physician, osteopathic physician or homeopathic physician licensed under chapter 7, 8, 14, 17 or 29 of this title on receipt of proper authorization to do so from the patient, a minor patient's parent, the patient's legal guardian or the patient's authorized representative or failing to comply with title 12, chapter 13, article 7.1.

(tt) Prescribing, dispensing or furnishing a prescription medication or a prescription-only device as defined in section 32-1901 to a person unless the licensee first conducts a physical or mental health status examination of that person or has previously established a doctor-patient relationship. The physical or mental health status examination may be conducted during a real-time telemedicine encounter with audio and video capability through telehealth as defined in section 36-3601 with a clinical evaluation that is appropriate for the patient and the condition with which the patient presents, unless the examination is for the purpose of obtaining a written certification from the physician for the purposes of title 36, chapter 28.1. This subdivision does not apply to:

(i) A physician who provides temporary patient supervision on behalf of the patient's regular treating licensed health care professional or provides a consultation requested by the patient's regular treating licensed health care professional.

(ii) Emergency medical situations as defined in section 41-1831.

(iii) Prescriptions written to prepare a patient for a medical examination.

(iv) Prescriptions written or prescription medications issued for use by a county or tribal public health department for immunization programs or emergency treatment or in response to an infectious disease investigation, public health emergency, infectious disease outbreak or act of bioterrorism. For the purposes of this item, "bioterrorism" has the same meaning prescribed in section 36-781.

(v) Prescriptions written or antimicrobials dispensed to a contact as defined in section 36-661 who is believed to have had significant exposure risk as defined in section 36-661 with another person who has been diagnosed with a communicable disease as defined in section 36-661 by the prescribing or dispensing physician.

(vi) Prescriptions written or prescription medications issued for administration of immunizations or vaccines listed in the United States centers for disease control and prevention's recommended immunization schedule to a household member of a patient.
(vii) Prescriptions for epinephrine auto-injectors written or dispensed for a school district or charter school to be stocked for emergency use pursuant to section 15-157 or for an authorized entity to be stocked pursuant to section 36-2226.01.

(viii) Prescriptions written by a licensee through a telemedicine TELEHEALTH program that is covered by the policies and procedures adopted by the administrator of a hospital or outpatient treatment center.

(ix) Prescriptions for naloxone hydrochloride or any other opioid antagonist approved by the United States food and drug administration that are written or dispensed for use pursuant to section 36-2228 or 36-2266.

(uu) Performing office based surgery using sedation in violation of board rules.

(vv) Practicing medicine under a false or assumed name in this state.
EXPLANATION OF BLEND
SECTION 32-1901

Laws 2021, Chapters 61, 226 and 278

Laws 2021, Ch. 61, section 6  Effective September 29, 2021
Laws 2021, Ch. 226, section 1  Effective September 29, 2021
Laws 2021, Ch. 278, section 1  Effective September 29, 2021

Explanation

Since these three enactments are compatible, the Laws 2021, Ch. 61, Ch. 226 and Ch. 278 text changes to section 32-1901 are blended in the form shown on the following pages.

The Laws 2021, Ch. 226 version of section 32-1901, paragraph 24 struck the words "apparatuses and" and inserted "apparatus and". The Ch. 278 version struck the words "apparatuses and" and inserted "apparatus or". Since this would not produce a substantive change, the blend version reflects the Ch. 278 version.

The Laws 2021, Ch. 226 version of section 32-1901, paragraphs 33, 37 and 79(a)(viii) showed the stricken words and new words in a different order than the Ch. 278 version. Since this would not produce a substantive change, the blend version reflects the Ch. 226 version.
32-1901. Definitions

In this chapter, unless the context otherwise requires:

1. "Administer" means the direct application of DIRECTLY APPLYING a controlled substance, prescription-only drug, dangerous drug or narcotic drug, whether by injection, inhalation, ingestion or any other means, to the body of a patient or research subject by a practitioner or by the practitioner's authorized agent or the patient or research subject at the direction of the practitioner.

2. "Advertisement" means all representations THAT ARE disseminated in any manner or by any means other than by labeling, for the purpose of inducing, directly or indirectly, the purchase of drugs, devices, poisons or hazardous substances.

3. "Advisory letter" means a nondisciplinary letter to notify a licensee or permittee that either:
   (a) While there is insufficient evidence to support disciplinary action, the board believes that continuation of the activities that led to the investigation may result in further board action against the licensee or permittee.
   (b) The violation is a minor or technical violation that is not of sufficient merit to warrant disciplinary action.
   (c) While the licensee or permittee has demonstrated substantial compliance through rehabilitation, remediation or reeducation that has mitigated the need for disciplinary action, the board believes that repetition of REPEATING the activities that led to the investigation may result in further board action against the licensee or permittee.

4. "Antiseptic", if a drug is represented as such on its label, means a representation that it is a germicide, except in the case of a drug purporting to be, or represented as, an antiseptic for inhibitory use as a wet dressing, ointment or dusting powder or other use that involves prolonged contact with the body.

5. "Authorized officers of the law" means legally empowered peace officers, compliance officers of the board of pharmacy and agents of the division of narcotics enforcement and criminal intelligence of the department of public safety.

6. "Automated prescription-dispensing kiosk" means a mechanical system that is operated as an extension of a pharmacy, that maintains all transaction information within the pharmacy operating system, that is separately permitted from the pharmacy and that performs operations that either:
   (a) Accept a prescription or refill order, store prepackaged or repackaged medications, label and dispense patient-specific prescriptions and provide counseling on new or refilled prescriptions.
(b) Dispense or deliver a prescription or refill that has been prepared by or on behalf of the pharmacy that oversees the automated prescription-dispensing kiosk.

7. "Board" or "board of pharmacy" means the Arizona state board of pharmacy.


9. "Certificate of free sale" means a document that authenticates a product that is generally and freely sold in domestic or international channels of trade.

10. "Color additive" means a material that either:

   (a) Is any dye, pigment or other substance THAT IS made by a process of synthesis or similar artifice, or THAT IS extracted, isolated or otherwise derived, with or without intermediate or final change of identity, from any vegetable, animal, mineral or other source.

   (b) If added or applied to a drug, or to the human body or any part of the human body, is capable of imparting color, except that color additive does not include any material that has been or may be exempted under the federal act. Color includes black, white and intermediate grays.

11. "Compounding" means the preparation of PREPARING, mixing, assembling, packaging or labeling of a drug by a pharmacist or an intern or pharmacy technician under the pharmacist's supervision, for the purpose of dispensing to a patient based on a valid prescription order. Compounding includes the preparation of PREPARING drugs in anticipation of prescription orders prepared on routine, regularly observed prescribing patterns and the preparation of PREPARING drugs as an incident to research, teaching or chemical analysis or for administration by a medical practitioner to the medical practitioner's patient and not for sale or dispensing. Compounding does not include the preparation of PREPARING commercially available products from bulk compounds or the preparation of PREPARING drugs for sale to pharmacies, practitioners or entities for the purpose of dispensing or distribution.

12. "Compressed medical gas distributor" means a person who holds a current permit issued by the board to distribute compressed medical gases pursuant to a compressed medical gas order to compressed medical gas suppliers and other entities that are registered, licensed or permitted to use, administer or distribute compressed medical gases.

13. "Compressed medical gases" means gases and liquid oxygen that a compressed medical gas distributor or manufacturer has labeled in compliance with federal law.

14. "Compressed medical gas order" means an order for compressed medical gases that is issued by a medical practitioner.

15. "Compressed medical gas supplier" means a person who holds a current permit issued by the board to supply compressed medical gases pursuant to a compressed medical gas order and only to the consumer or the patient.

16. "Controlled substance" means a drug, substance or immediate precursor that is identified, defined or listed in title 36, chapter 27, article 2 OR THE RULES ADOPTED PURSUANT TO TITLE 36, CHAPTER 27, ARTICLE 2.
17. "Corrosive" means any substance that when it comes in contact with living tissue will cause destruction of the tissue by chemical action.

18. "Counterfeit drug" means a drug that, or the container or labeling of which, without authorization, bears the trademark, trade name or other identifying mark, imprint, number or device, or any likeness of these, of a manufacturer, distributor or dispenser other than the person who that in fact manufactured, distributed or dispensed that drug.

19. "Dangerous drug" has the same meaning prescribed in section 13-3401.

20. "Day" means a business day.

21. "Decree of censure" means an official action that is taken by the board and that may include a requirement for restitution of fees to a patient or consumer.

22. "Deliver" or "delivery" means the actual, constructive or attempted transfer from one person to another whether or not there is an agency relationship.

23. "Deputy director" means a pharmacist who is employed by the board and selected by the executive director to perform duties as prescribed by the executive director.

24. "Device", except as used in paragraph 18 of this section, section 32-1965, paragraph 4 and section 32-1967, subsection A, paragraph 15 and subsection C, means instruments an instrument, apparatuses and contrivances apparatus or contrivance, including its components, parts and accessories, including all such items under the federal act. That is intended either:

(a) For use in diagnosis, cure, mitigation, treatment or prevention of diagnosing, curing, mitigating, treating or preventing disease in the human body or other animals.

(b) To affect the structure or any function of the human body or other animals.

25. "Director" means the director of the division of narcotics enforcement and criminal investigation of the department of public safety.

26. "Direct supervision of a pharmacist" means that the pharmacist is present. If relating to the sale of certain items, direct supervision of a pharmacist means that a pharmacist determines the legitimacy or advisability of a proposed purchase of those items.

27. "Dispense" means to deliver to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing, administering, packaging, labeling or compounding as necessary to prepare for that delivery.


29. "Distribute" means to deliver, other than by administering or dispensing.

30. "Distributor" means a person who distributes.

31. "Drug" means:

(a) Articles that are recognized, or for which standards or specifications are prescribed, in the official compendium.

(b) Articles that are intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in the human body or other animals.
(c) Articles other than food THAT ARE intended to affect the structure or any function of the human body or other animals.

(d) Articles THAT ARE intended for use as a component of any articles specified in subdivision (a), (b) or (c) of this paragraph but does not include devices or their components, parts or accessories.

32. "Drug enforcement administration" means the drug enforcement administration of the United States department of justice or its successor agency.

33. "Drug or device manufacturing" means the production, preparation, propagation PRODUCING, PREPARING, PROPAGATING or processing of a drug or device, either directly or indirectly, by extraction from substances of natural origin or independently by means of chemical synthesis and includes any packaging or repackaging of substances or labeling or relabeling of its container and the promotion PROMOTING and marketing of the same. Drug or device manufacturing does not include compounding.

34. "DURABLE MEDICAL EQUIPMENT" MEANS TECHNOLOGICALLY SOPHISTICATED MEDICAL EQUIPMENT AS PRESCRIBED BY THE BOARD IN RULE THAT A PATIENT OR CONSUMER MAY USE IN A HOME OR RESIDENCE AND THAT MAY BE A PRESCRIPTION-ONLY DEVICE.

35. "DURABLE MEDICAL EQUIPMENT DISTRIBUTOR":
(a) MEANS A PERSON THAT STORES OR DISTRIBUTES DURABLE MEDICAL EQUIPMENT OTHER THAN TO THE PATIENT OR CONSUMER.
(b) INCLUDES A VIRTUAL DURABLE MEDICAL EQUIPMENT DISTRIBUTOR AS PRESCRIBED IN RULE BY THE BOARD.

36. "DURABLE MEDICAL EQUIPMENT SUPPLIER":
(a) MEANS A PERSON THAT SELLS, LEASES OR SUPPLIES DURABLE MEDICAL EQUIPMENT TO THE PATIENT OR CONSUMER.
(b) INCLUDES A VIRTUAL DURABLE MEDICAL EQUIPMENT SUPPLIER AS PRESCRIBED IN RULE BY THE BOARD.

37. "Economic poison" means any substance that alone, in chemical combination with or in formulation with one or more other substances is a pesticide within the meaning of the laws of this state or the federal insecticide, fungicide and rodenticide act and that is used in the production, storage PRODUCING, STORING or transportation of TRANSPORTING raw agricultural commodities.

38. "Enteral feeding" means nourishment THAT IS provided by means of a tube inserted into the stomach or intestine.

39. "Established name", with respect to a drug or ingredient of a drug, means any of the following:
(a) The applicable official name.
(b) If there is no such name and the drug or ingredient is an article recognized in an official compendium, the official title in an official compendium.
(c) If neither subdivision (a) nor (b) of this paragraph applies, the common or usual name of the drug.

40. "Executive director" means the executive director of the board of pharmacy.

41. "Federal act" means the federal laws and regulations that pertain to drugs, devices, poisons and hazardous substances and that are
official at the time any drug, device, poison or hazardous substance is
affected by this chapter.

Ch. 226  42. "Full-service" FULL-SERVICE wholesale permiittee:
(a) Means a permiittee who may distribute prescription-only drugs and
devices, controlled substances and over-the-counter drugs and devices to
pharmacies or other legal outlets from a place devoted in whole or in part to
wholesaling these items.
(b) Includes a virtual wholesaler as defined in rule by the board.

40. 43. "Good manufacturing practice" means a system for ensuring
that products are consistently produced and controlled according to quality
standards and covering all aspects of design, monitoring and control of
manufacturing processes and facilities to ensure that products do not pose
any risk to the consumer or public.

41. 44. "Highly toxic" means any substance that falls within any of
the following categories:
(a) Produces death within fourteen days in half or more than half of a
group of ten or more laboratory white rats each weighing between two hundred
and three hundred grams, at a single dose of fifty milligrams or less per
kilogram of body weight, when orally administered.
(b) Produces death within fourteen days in half or more than half of a
group of ten or more laboratory white rats each weighing between two hundred
and three hundred grams, if inhaled continuously for a period of one hour or
less at an atmospheric concentration of two hundred parts per million by
volume or less of gas or vapor or two milligrams per liter by volume or less
of mist or dust, provided the concentration is likely to be encountered by
humans if the substance is used in any reasonably foreseeable manner.
(c) Produces death within fourteen days in half or more than half of a
group of ten or more rabbits tested in a dosage of two hundred milligrams or
less per kilogram of body weight, if administered by continuous contact with
the bare skin for twenty-four hours or less.

If the board finds that available data on human experience with any substance
indicate results different from those obtained on animals in the dosages or
concentrations prescribed in this paragraph, the human data shall take
precedence.

42. 45. "Hospital" means any institution for the care and treatment
of the sick and injured that is approved and licensed as a hospital by the
department of health services.

43. 46. "Intern" means a pharmacy intern.

44. 47. "Internship" means the practical, experiential, hands-on
training of a pharmacy intern under the supervision of a preceptor.

45. 48. "Irritant" means any substance, other than a corrosive, that
on immediate, prolonged or repeated contact with normal living tissue will
induce a local inflammatory reaction.

46. 49. "Jurisprudence examination" means a board-approved pharmacy
law examination that is written and administered in cooperation with the
national association of boards of pharmacy or another board-approved pharmacy
law examination.

47. 50. "Label" means a display of written, printed or graphic matter
on the immediate container of any article that, unless easily legible through
the outside wrapper or container, also appears on the outside wrapper or

-5-
container of the article's retail package. For the purposes of this paragraph, the immediate container does not include package liners.

48. 51. "Labeling" means all labels and other written, printed or graphic matter THAT either:
   (a) IS on any article or any of its containers or wrappers.
   (b) Accompanying ACCOMPANIES that article.

49. 52. "Letter of reprimand" means a disciplinary letter that is a public document issued by the board and that informs a licensee or permittee that the licensee's or permittee's conduct violates state or federal law and may require the board to monitor the licensee or permittee.

50. 53. "Limited service pharmacy" means a pharmacy that is approved by the board to practice a limited segment of pharmacy as indicated by the permit issued by the board.

51. 54. "Manufacture" or "manufacturer":
   (a) Means every person who prepares, derives, produces, compounds, processes, packages, or repackages or labels any drug in a place, other than a pharmacy, that is devoted to manufacturing the drug.
   (b) Includes a virtual manufacturer as defined in rule by the board.

52. 55. "Marijuana" has the same meaning prescribed in section 13-3401.

53. 56. "Medical practitioner" means any medical doctor, doctor of osteopathic medicine, dentist, podiatrist, veterinarian or other person who is licensed and authorized by law to use and prescribe drugs and devices for the treatment of TO TREAT sick and injured human beings or animals or for the diagnosis TO DIAGNOSE or prevention of PREVENT sickness in human beings or animals in this state or any state, territory or district of the United States.

54. 57. "Medication order" means a written or verbal order from a medical practitioner or that person's authorized agent to administer a drug or device.

55. 58. "Narcotic drug" has the same meaning prescribed in section 13-3401.

56. 59. "New drug" means either:
   (a) Any drug OF WHICH the composition of which is such that the drug is not generally recognized among experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs as safe and effective for use under the conditions prescribed, recommended or suggested in the labeling.
   (b) Any drug OF WHICH the composition of which is such that the drug, as a result of investigations to determine its safety and effectiveness for use under such conditions, has become so recognized, but that has not, other than in the investigations, been used to a material extent or for a material time under those conditions.

57. 60. "Nonprescription drug" or "over-the-counter drug" means any nonnarcotic medicine or drug that may be sold without a prescription and that is prepackaged and labeled for use by the consumer in accordance with the requirements of the laws of this state and federal law. Nonprescription drug does not include:
(a) A drug that is primarily advertised and promoted professionally to medical practitioners and pharmacists by manufacturers or primary distributors.

(b) A controlled substance.

(c) A drug that is required to bear a label that states "Rx only".

(d) A drug that is intended for human use by hypodermic injection.

61. "Nonprescription drug wholesale permittee":
(a) Means a permittee who may distribute only over-the-counter drugs and devices to pharmacies or other lawful outlets from a place devoted in whole or in part to wholesaling these items.
(b) Includes a virtual wholesaler as defined in rule by the board.

62. "Notice" means personal service or the mailing of a copy of the notice by certified mail AND EMAIL addressed either to the person at the person's latest address of record in the board office or to the PERSON AND THE person's attorney USING THE MOST RECENT INFORMATION PROVIDED TO THE BOARD IN THE BOARD'S LICENSING DATABASE.

63. "Nutritional supplementation" means vitamins, minerals and caloric supplementation. Nutritional supplementation does not include medication or drugs.

64. "Official compendium" means the latest revision of the United States pharmacopeia and the national formulary or any current supplement.

65. "Other jurisdiction" means one of the other forty-nine states, the District of Columbia, the Commonwealth of Puerto Rico or a territory of the United States of America.

66. "Package" means a receptacle THAT IS defined or described in the United States pharmacopeia and the national formulary as adopted by the board.

67. "Packaging" means the act or process of placing a drug item or device in a container for the purpose or intent of dispensing or distributing the item or device to another.

68. "Parenteral nutrition" means intravenous feeding that provides AN INDIVIDUAL with fluids and essential nutrients the person INDIVIDUAL needs while the person INDIVIDUAL is unable to receive adequate fluids or feedings by mouth or by enteral feeding.

69. "Person" means an individual, partnership, corporation and association, and their duly authorized agents.

70. "Pharmaceutical care" means the provision of drug therapy and other pharmaceutical patient care services.

71. "Pharmacist" means an individual who is currently licensed by the board to practice the profession of pharmacy in this state.

72. "Pharmacist in charge" means the pharmacist who is responsible to the board for a licensed establishment's compliance with the laws and administrative rules of this state and of the federal government pertaining to the practice of pharmacy, the manufacturing of drugs and the distribution of drugs and devices.

73. "Pharmacist licensure examination" means a board-approved examination that is written and administered in cooperation with the national association of boards of pharmacy or any other board-approved pharmacist licensure examination.

74. "Pharmacy":
(a) Means:

(i) Any place where drugs, devices, poisons or related hazardous substances are offered for sale at retail OR WHERE PRESCRIPTION ORDERS ARE DISPENSED BY A LICENSED PHARMACIST.

(ii) Any place in which the profession of pharmacy is practiced or where prescription orders are compounded and dispensed.

(iii) Any place that has displayed on it or in it the words "pharmacist", "pharmaceutical chemist", "apothecary", "druggist", "pharmacy", "drugstore", "drugs" or "drug sundries" or any of these words or combinations of these words, or words of similar import either in English or any other language, or that is advertised by any sign containing any of these words.

(iv) Any place where the characteristic symbols of pharmacy or the characteristic prescription sign "Rx" is exhibited AND WHERE DRUGS ARE STORED OR DISPENSED.

(v) Any place or a portion of any building or structure that is leased, used or controlled by the permittee to conduct the business authorized by the board at the address for which the permit was issued and that is enclosed and secured when a pharmacist is not in attendance.

(vi) A remote dispensing site pharmacy where a pharmacy technician or pharmacy intern prepares, compounds or dispenses prescription medications under remote supervision by a pharmacist.

(vii) A REMOTE HOSPITAL SITE PHARMACY, AS DEFINED BY THE BOARD IN RULE, THAT OPERATES UNDER DIRECT OR REMOTE SUPERVISION BY A PHARMACIST PURSUANT TO RULES ADOPTED BY THE BOARD.

(b) Includes a satellite pharmacy.

75. "Pharmacy intern" means a person who has all of the qualifications and experience prescribed in section 32-1923.

76. "Pharmacy technician" means a person who is licensed pursuant to this chapter.

77. "Pharmacy technician trainee" means a person who is licensed pursuant to this chapter.

78. "Poison" or "hazardous substance" includes, but is not limited to, any of the following if intended and suitable for household use or use by children:

(a) Any substance that, according to standard works on medicine, pharmacology, pharmacognosy or toxicology, if applied to, introduced into or developed within the body in relatively small quantities by its inherent action uniformly produces serious bodily injury, disease or death.

(b) A toxic substance.

(c) A highly toxic substance.

(d) A corrosive substance.

(e) An irritant.

(f) A strong sensitizer.

(g) A mixture of any of the substances described in this paragraph, if the substance or mixture of substances may cause substantial personal injury or substantial illness during or as a proximate result of any customary or reasonably foreseeable handling or use, including reasonably foreseeable ingestion by children.

(h) A substance that is designated by the board to be a poison or hazardous substance. This subdivision does not apply to radioactive

-8-
substances, economic poisons subject to the federal insecticide, fungicide and rodenticide act or the state pesticide act, foods, drugs and cosmetics subject to state laws or the federal act or substances intended for use as fuels when stored in containers and used in the heating, cooking or refrigeration system of a house. This subdivision applies to any substance or article that is not itself an economic poison within the meaning of the federal insecticide, fungicide and rodenticide act or the state pesticide act, but that is a poison or hazardous substance within the meaning of this paragraph by reason of bearing or containing an economic poison or hazardous substance.

76-79. "Practice of pharmacy":
(a) Means furnishing the following health care services as a medical professional:
   (i) Interpreting, evaluating and dispensing prescription orders in the patient's best interests.
   (ii) Compounding drugs pursuant to or in anticipation of a prescription order.
   (iii) Labeling drugs and devices in compliance with state and federal requirements.
   (iv) Participating in drug selection and drug utilization reviews, drug administration, drug or drug-related research and drug therapy monitoring or management.
   (v) Providing patient counseling necessary to provide pharmaceutical care.
   (vi) Properly and safely storing drugs and devices in anticipation of dispensing.
   (vii) Maintaining required records of drugs and devices.
   (viii) Offering or performing acts, services, operations or transactions THAT ARE necessarily necessary in the TO conduct, operate, manage and control of a pharmacy.
   (ix) Initiating, monitoring and modifying drug therapy pursuant to a protocol-based drug therapy agreement with a provider as outlined in section 32-1970.
   (x) Initiating and administering immunizations or vaccines pursuant to section 32-1974.
(b) Does not include initiating a prescription order for any medication, drug or other substance used to induce or cause a medication abortion as defined in section 36-2151.

77-80. "Practitioner" means any physician, dentist, veterinarian, scientific investigator or other person who is licensed, registered or otherwise permitted to distribute, dispense, conduct research with respect to or administer a controlled substance in the course of professional practice or research in this state, or any pharmacy, hospital or other institution that is licensed, registered or otherwise permitted to distribute, dispense, conduct research with respect to or administer a controlled substance in the course of professional practice or research in this state.

78-81. "Preceptor" means a pharmacist who is serving as the practical instructor of an intern and WHO complies with section 32-1923.
79-82. "Precursor chemical" means a substance that is:
(a) The principal compound that is commonly used or that is produced
primarily for use and that is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail or limit manufacture.

(b) Listed in section 13-3401, paragraph 26 or 27.

87. "Prescription" means either a prescription order or a prescription medication.

88. "Prescription medication" means any drug, including label and container according to context, that is dispensed pursuant to a prescription order.

89. "Prescription-only device" includes:
   (a) Any device that is limited by the federal act to use under the supervision of a medical practitioner.
   (b) Any device required by the federal act to bear on its label essentially the legend "Rx only".

90. "Prescription-only drug" does not include a controlled substance but does include:
   (a) Any drug that because of its toxicity or other potentiality for harmful effect, the method of its use, or the collateral measures necessary to its use is not generally recognized among experts, qualified by scientific training and experience to evaluate its safety and efficacy, as safe for use except by or under the supervision of a medical practitioner.
   (b) Any drug that is limited by an approved new drug application under the federal act or section 32-1962 to use under the supervision of a medical practitioner.
   (c) Every potentially harmful drug, the labeling of which does not bear or contain full and adequate directions for use by the consumer.
   (d) Any drug, other than a controlled substance, THAT IS required by the federal act to bear on its label the legend "Rx only".

91. "Prescription order" means any of the following:
   (a) An order to a pharmacist for drugs or devices THAT IS issued and signed by a duly licensed medical practitioner in the authorized course of the practitioner's professional practice.
   (b) An order THAT IS transmitted to a pharmacist through word of mouth, telephone or other means of communication directed by that medical practitioner. Prescription orders received by word of mouth, telephone or other means of communication shall be maintained by the pharmacist pursuant to section 32-1964, and the record so made by the pharmacist constitutes the original prescription order to be dispensed by the pharmacist. This paragraph does not alter or affect laws of this state or any federal act requiring a written prescription order.
   (c) An order THAT IS initiated by a pharmacist pursuant to a protocol-based drug therapy agreement with a provider as outlined in section 32-1970, or immunizations or vaccines administered by a pharmacist pursuant to section 32-1974.
   (d) A diet order or an order for enteral feeding, nutritional supplementation or parenteral nutrition that is initiated by a registered dietitian or other qualified nutrition professional in a hospital pursuant to section 36-416.

92. "Professionally incompetent" means:
(a) Incompetence based on a variety of factors, including a lack of sufficient pharmaceutical knowledge or skills or experience to a degree likely to endanger the health of patients.

(b) When considered with other indications of professional incompetence, a pharmacist or pharmacy intern who fails to obtain a passing score on a board-approved pharmacist licensure examination or a pharmacy technician or pharmacy technician trainee who fails to obtain a passing score on a board-approved pharmacy technician licensure examination.

89. "Radioactive substance" means a substance that emits ionizing radiation.

90. "Remote dispensing site pharmacy" means a pharmacy where a pharmacy technician or pharmacy intern prepares, compounds or dispenses prescription medications under remote supervision by a pharmacist.

91. "Remote supervision by a pharmacist" means that a pharmacist directs and controls the actions of pharmacy technicians and pharmacy interns through the use of audio and visual technology.

92. "Revocation" or "revoke" means the official cancellation of a license, permit, registration or other approval authorized by the board for a period of two years unless otherwise specified by the board. A request or new application for reinstatement may be presented to the board for review before the conclusion of the specified revocation period upon review of the executive director.

93. "Safely engage in employment duties" means that a permittee or the permittee's employee is able to safely engage in employment duties related to the manufacture, sale, distribution or dispensing of drugs, devices, poisons, hazardous substances, controlled substances or precursor chemicals.

94. "Satellite pharmacy" means a work area located within a hospital or on a hospital campus that is not separated by other commercial property or residential property, that is under the direction of a pharmacist, that is a remote extension of a centrally licensed hospital pharmacy, that is owned by and dependent on the centrally licensed hospital pharmacy for administrative control, staffing and drug procurement and that is not required to be separately permitted.

95. "Symbol" means the characteristic symbols that have historically identified pharmacy, including show globes and mortar and pestle, and the sign "Rx".

96. "Third-party logistics provider" means an entity that provides or coordinates warehousing or other logistics services for a prescription or over-the-counter dangerous drug or dangerous device in intrastate or interstate commerce on behalf of a manufacturer, wholesaler or dispenser of the prescription or over the counter dangerous drug or dangerous device THE FOLLOWING ITEMS, but that does not take ownership of the prescription or over-the-counter dangerous drug or dangerous device or have responsibility to direct its sale or disposition THE ITEMS, AND THAT DISTRIBUTES THOSE ITEMS AS DIRECTED BY A MANUFACTURER, WHOLESALER, DISPENSER OR DURABLE MEDICAL EQUIPMENT SUPPLIER THAT IS PERMITTED BY THE BOARD:

(a) NARCOTIC DRUGS OR OTHER CONTROLLED SUBSTANCES.
(b) DANGEROUS DRUGS AS DEFINED IN SECTION 13-3401.
(c) PRESCRIPTION-ONLY DRUGS AND DEVICES.
(d) NON PRESCRIPTION DRUGS AND DEVICES.
(e) PRECURSOR CHEMICALS.
(f) REGULATED CHEMICALS AS DEFINED IN SECTION 13-3401.

94-97. "Toxic substance" means a substance, other than a radioactive substance, that has the capacity to produce injury or illness in humans through ingestion, inhalation or absorption through any body surface.

95-98. "Ultimate user" means a person who lawfully possesses a drug or controlled substance for that person's own use, for the use of a member of that person's household or for administering to an animal owned by that person or by a member of that person's household.
EXPLANATION OF BLEND
SECTION 32-1901.01

Laws 2021, Chapters 226 and 320

Laws 2021, Ch. 226, section 2  Effective September 29, 2021
Laws 2021, Ch. 320, section 8  Effective May 5, 2021

Explanation

Since these two enactments are compatible, the Laws 2021, Ch. 226 and Ch. 320 text changes to section 32-1901.01 are blended in the form shown on the following pages.
32-1901.01. Definition of unethical and unprofessional conduct; permittees; licensees

A. In this chapter, unless the context otherwise requires, for the purposes of disciplining a permittee, "unethical conduct" means the following, whether occurring in this state or elsewhere:

1. Committing a felony, whether or not involving moral turpitude, or a misdemeanor involving moral turpitude or any drug-related offense. In either case, conviction by a court of competent jurisdiction or a plea of no contest is conclusive evidence of the commission.

2. Committing an act that is substantially related to the qualifications, functions or duties of a permittee and that demonstrates either a lack of good moral character or an actual or potential unfitness to hold a permit in light of the public's safety.

3. Working under the influence of alcohol or other drugs.

4. Being addicted to the use of using alcohol or other drugs to such a degree as to render the permittee unfit to perform the permittee's employment duties.

5. Violating a federal or state law or administrative rule relating to the manufacture, sale or distribution of drugs, devices, poisons, hazardous substances or precursor chemicals.

6. Violating a federal or state law or administrative rule relating to marijuana, prescription-only drugs, narcotics, dangerous drugs, controlled substances or precursor chemicals.

7. Violating state or federal reporting or recordkeeping requirements on transactions relating to precursor chemicals.

8. Failing to report in writing to the board any evidence that a pharmacist or pharmacy intern is or may be professionally incompetent, is or may be guilty of unprofessional conduct or is or may be mentally or physically unable safely to engage in the practice of pharmacy.

9. Failing to report in writing to the board any evidence that a pharmacy technician or pharmacy technician trainee is or may be professionally incompetent, is or may be guilty of unprofessional conduct or is or may be mentally or physically unable safely to engage in the permissible activities of a pharmacy technician or pharmacy technician trainee.

10. Failing to report in writing to the board any evidence that appears to show that a permittee or permittee's employee is or may be guilty of unethical conduct, is or may be mentally or physically unable safely to engage in employment duties related to manufacturing, selling, distributing or dispensing of drugs, devices, poisons, hazardous substances, controlled substances or precursor chemicals or is or may be in violation of VIOLATING this chapter or a rule adopted under this chapter.
11. Intending to sell, transfer or distribute, or to offer for sale, transfer or distribution, or selling, transferring, distributing or dispensing or offering for sale, transfer or distribution an imitation controlled substance, imitation over-the-counter drug or imitation prescription-only drug as defined in section 13-3451.

12. Having the permittee's permit to manufacture, sell, distribute or dispense drugs, devices, poisons, hazardous substances or precursor chemicals denied or disciplined in another jurisdiction.

13. Committing an offense in another jurisdiction that if committed in this state would be grounds for discipline.

14. Obtaining or attempting to obtain a permit or a permit renewal by fraud, by misrepresentation or by knowingly taking advantage of the mistake of another person or an agency.

15. Wilfully making a false report or record THAT IS required by this chapter, THAT IS required by federal or state laws pertaining to drugs, devices, poisons, hazardous substances or precursor chemicals or THAT IS required for the payment TO PAY for drugs, devices, poisons or hazardous substances or precursor chemicals or for services pertaining to such drugs or substances.

16. Knowingly filing with the board any application, renewal or other document that contains false or misleading information.

17. Providing false or misleading information or omitting material information in any communication to the board or the board's employees or agents.

18. Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, this chapter.

19. Violating a formal order, terms of probation, a consent agreement or a stipulation issued or entered into by the board or its executive director pursuant to this chapter.

20. Failing to comply with a board subpoena or failing to comply in a timely manner with a board subpoena without providing any explanation to the board for not complying with the subpoena.

21. Failing to provide the board or its employees or agents or an authorized federal or state official conducting a site investigation, inspection or audit with access to any place for which a permit has been issued or for which an application for a permit has been submitted.

22. Failing to notify the board of a change of ownership, management or pharmacist in charge.

23. Failing to promptly produce on the request of the official conducting a site investigation, inspection or audit any book, record or document.

24. Overruling or attempting to overrule a pharmacist in matters of pharmacy ethics or interpreting laws pertaining to the practice of pharmacy or the distribution of drugs or devices.

25. Distributing premiums or rebates of any kind in connection with the sale of prescription medication, other than to the prescription medication recipient.
26. Failing to maintain effective controls against the diversion of controlled substances or precursor chemicals to unauthorized persons or entities.

27. Fraudulently claiming to have performed a service.

28. Fraudulently charging a fee for a service.

29. Advertising drugs or devices, or services pertaining to drugs or devices, in a manner that is untrue or misleading in any particular, and that is known, or that by the exercise of reasonable care should be known, to be untrue or misleading.

B. In this chapter, unless the context otherwise requires, for the purposes of disciplining a pharmacist or pharmacy intern, "unprofessional conduct" means the following, whether occurring in this state or elsewhere:

1. Being addicted to the use of alcohol or other drugs to such a degree as to render the licensee unfit to practice the profession of pharmacy.

2. Violating any federal or state law, rule or regulation relating to the manufacture or distribution of drugs and devices or the practice of pharmacy.

3. Dispensing a different drug or brand of drug in place of the drug or brand of drug ordered or prescribed without the express permission in each case of the orderer, or in the case of a prescription order, the medical practitioner. The conduct prohibited by this paragraph does not apply to substitutions authorized pursuant to section 32-1963.01.

4. Obtaining or attempting to obtain a license to practice pharmacy or a license renewal by fraud, by misrepresentation or by knowingly taking advantage of the mistake of another person or an agency.

5. Having the licensee's license to practice pharmacy denied or disciplined in another jurisdiction.

6. Claiming professional superiority in compounding or dispensing prescription orders.

7. Failing to comply with the mandatory continuing professional pharmacy education requirements of sections 32-1936 and 32-1937 and rules adopted by the board.

8. Committing a felony, whether or not involving moral turpitude, or a misdemeanor involving moral turpitude or any drug-related offense. In either case, conviction by a court of competent jurisdiction or a plea of no contest is conclusive evidence of the commission.

9. Working under the influence of alcohol or other drugs.

10. Violating a federal or state law or administrative rule relating to marijuana, prescription-only drugs, narcotics, dangerous drugs, controlled substances or precursor chemicals when determined by the board or by conviction in a federal or state court.

11. Knowingly dispensing a drug without a valid prescription order as required pursuant to section 32-1968, subsection A.

12. Knowingly dispensing a drug on a prescription order that was issued in the course of the conduct of business of dispensing drugs pursuant to diagnosis by mail or the internet, unless the order was any of the following:

(a) Made by a physician who provides temporary patient supervision on behalf of the patient's regular treating licensed health care professional or
provides a consultation requested by the patient's regular treating licensed health care professional.

(b) Made in an emergency medical situation as defined in section 41-1831.

(c) Written to prepare a patient for a medical examination.

(d) Written or the prescription medications were issued for use by a county or tribal public health department for immunization programs or emergency treatment or in response to an infectious disease investigation, a public health emergency, an infectious disease outbreak or an act of bioterrorism. For the purposes of this subdivision, "bioterrorism" has the same meaning prescribed in section 36-781.

(e) Written or antimicrobials were dispensed by the prescribing or dispensing physician to a contact as defined in section 36-661 who is believed to have had significant exposure risk as defined in section 36-661 with another person who has been diagnosed with a communicable disease as defined in section 36-661.

(f) Written or the prescription medications were issued for administration of ADMINISTERING immunizations or vaccines listed in the United States centers for disease control and prevention's recommended immunization schedule to a household member of a patient.

(g) Written by a licensee through a telemicine TELEHEALTH program that is covered by the policies and procedures adopted by the administrator of a hospital or outpatient treatment center.

(h) Written pursuant to a physical or mental health status examination that was conducted during a real-time telemicine encounter with audio and video capability THROUGH TELEHEALTH AS DEFINED IN SECTION 36-3601 AND CONSISTENT WITH FEDERAL LAW.

(i) For naloxone hydrochloride or any other opioid antagonist approved by the United States food and drug administration and written or dispensed for use pursuant to section 36-2228 or 36-2266.

13. Failing to report in writing to the board any evidence that a pharmacist or pharmacy intern is or may be professionally incompetent, is or may be guilty of unprofessional conduct or is or may be mentally or physically unable to safely engage in the practice of pharmacy.

14. Failing to report in writing to the board any evidence that a pharmacy technician or pharmacy technician trainee is or may be professionally incompetent, is or may be guilty of unprofessional conduct or is or may be mentally or physically unable to safely engage in the permissible activities of a pharmacy technician or pharmacy technician trainee.

15. Failing to report in writing to the board any evidence that a permittee or a permittee's employee is or may be guilty of unethical conduct or is or may be in violation of VIOLATING this chapter or a rule adopted under this chapter.

16. Committing an offense in another jurisdiction that if committed in this state would be grounds for discipline.
17. Knowingly filing with the board any application, renewal or other document that contains false or misleading information.

18. Providing false or misleading information or omitting material information in any communication to the board or the board's employees or agents.

19. Violating or attempting to violate, directly or indirectly, or assisting in or abetting in the violation of, or conspiring to violate, this chapter.

20. Violating a formal order, terms of probation, a consent agreement or a stipulation issued or entered into by the board or its executive director pursuant to this chapter.

21. Failing to comply with a board subpoena or failing to comply in a timely manner with a board subpoena without providing any explanation to the board for not complying with the subpoena.

22. Refusing without just cause to allow authorized agents of the board to examine documents that are required to be kept pursuant to this chapter or title 36.

23. Participating in an arrangement or agreement to allow a prescription order or a prescription medication to be left at, picked up from, accepted by or delivered to a place that is not licensed as a pharmacy. This paragraph does not prohibit a pharmacist or a pharmacy from using an employee or a common carrier to pick up prescription orders at or deliver prescription medications to the office or home of a medical practitioner, the residence of a patient or a patient's hospital.

24. Paying rebates or entering into an agreement for the payment of rebates to a medical practitioner or any other person in the health care field.

25. Providing or causing to be provided to a medical practitioner prescription order blanks or forms bearing the pharmacist's or pharmacy's name, address or other means of identification.

26. Fraudulently claiming to have performed a professional service.

27. Fraudulently charging a fee for a professional service.

28. Failing to report a change of the licensee's home address, contact information, employer or employer's address as required by section 32-1926.

29. Failing to report a change in the licensee's residency status as required by section 32-1926.01.

30. Failing to maintain effective controls against the diversion of controlled substances or precursor chemicals to unauthorized persons or entities.

C. In this chapter, unless the context otherwise requires, for the purposes of disciplining a pharmacy technician or pharmacy technician trainee, "unprofessional conduct" means the following, whether occurring in this state or elsewhere:

1. Being addicted to the use of USING alcohol or other drugs to such a degree as to render the licensee unfit to perform the licensee's employment duties.

2. Violating a federal or state law or administrative rule relating to the manufacture or distribution of drugs or devices.

3. Obtaining or attempting to obtain a pharmacy technician or pharmacy technician trainee license or a pharmacy technician license renewal by fraud.
by misrepresentation or by knowingly taking advantage of the mistake of another person or an agency.

4. Having the licensee's license to practice as a pharmacy technician denied or disciplined in another jurisdiction.

5. Failing to comply with the mandatory continuing professional education requirements of section 32-1925, subsection H and rules adopted by the board.

6. Committing a felony, whether or not involving moral turpitude, or a misdemeanor involving moral turpitude or any drug-related offense. In either case, conviction by a court of competent jurisdiction or a plea of no contest is conclusive evidence of the commission.

7. Working under the influence of alcohol or other drugs.

8. Violating a federal or state law or administrative rule relating to marijuana, prescription-only drugs, narcotics, dangerous drugs, controlled substances or precursor chemicals when determined by the board or by conviction in a federal or state court.

9. Failing to report in writing to the board any evidence that a pharmacist or pharmacy intern is or may be professionally incompetent, is or may be guilty of unprofessional conduct or is or may be mentally or physically unable to safely engage in the practice of pharmacy.

10. Failing to report in writing to the board any evidence that a pharmacy technician or pharmacy technician trainee is or may be professionally incompetent, is or may be guilty of unprofessional conduct or is or may be mentally or physically unable to safely engage in the permissible activities of a pharmacy technician or pharmacy technician trainee.

11. Failing to report in writing to the board any evidence that a permittee or a permittee's employee is or may be guilty of unethical conduct or is or may be in violation of VIOLATING this chapter or a rule adopted under this chapter.

12. Committing an offense in another jurisdiction that if committed in this state would be grounds for discipline.

13. Knowingly filing with the board any application, renewal or other document that contains false or misleading information.

14. Providing false or misleading information or omitting material information in any communication to the board or the board's employees or agents.

15. Violating or attempting to violate, directly or indirectly, or assisting in or abetting in the violation of, or conspiring to violate, this chapter.

16. Violating a formal order, terms of probation, a consent agreement or a stipulation issued or entered into by the board or its executive director pursuant to this chapter.

17. Failing to comply with a board subpoena or failing to comply in a timely manner with a board subpoena without providing any explanation to the board for not complying with the subpoena.

18. Failing to report a change of the licensee's home address, contact information, employer or employer's address as required by section 32-1926.

19. Failing to report a change in the licensee's residency status as required by section 32-1926.01.
EXPLANATION OF BLEND
SECTION 32-1904

Laws 2021, Chapters 226 and 247

Laws 2021, Ch. 226, section 3  Effective September 29, 2021
Laws 2021, Ch. 247, section 1  Effective September 29, 2021

Explanation

Since these two enactments are compatible, the Laws 2021, Ch. 226 and Ch. 247 text changes to section 32-1904 are blended in the form shown on the following pages.
32-1904. **Powers and duties of board; immunity**

A. The board shall:

1. Make bylaws and adopt rules that are necessary to protect the public and that pertain to the practice of pharmacy, the manufacturing, wholesaling or supplying of drugs, devices, poisons or hazardous substances, the use of pharmacy technicians and support personnel and the lawful performance of its duties.

2. Fix standards and requirements to register and reregister pharmacies, except as otherwise specified.

3. Investigate compliance as to the quality, label and labeling of all drugs, devices, poisons or hazardous substances and take action necessary to prevent the sale of these if they do not conform to the standards prescribed in this chapter, the official compendium or the federal act.

4. Enforce its rules. In so doing, the board or its agents have free access, during the hours reported with the board or the posted hours at the facility, to any pharmacy, manufacturer, wholesaler, third-party logistics provider, nonprescription drug permittee or other establishment in which drugs, devices, poisons or hazardous substances are manufactured, processed, packed or held, or to enter any vehicle being used to transport or hold such drugs, devices, poisons or hazardous substances for the purpose of:

   (a) Inspecting the establishment or vehicle to determine whether any provisions of this chapter or the federal act are being violated.

   (b) Securing samples or specimens of any drug, device, poison or hazardous substance after paying or offering to pay for the sample.

   (c) Detaining or embargoing a drug, device, poison or hazardous substance in accordance with section 32-1994.

5. Examine and license as pharmacists and pharmacy interns all qualified applicants as provided by this chapter.

6. Require each applicant for an initial license to apply for a fingerprint clearance card pursuant to section 41-1758.03. If an applicant is issued a valid fingerprint clearance card, the applicant shall submit the valid fingerprint clearance card to the board with the completed application. If an applicant applies for a fingerprint clearance card and is denied, the applicant may request that the board consider the application for licensure notwithstanding the absence of a valid fingerprint clearance card. The board, in its discretion, may approve an application for licensure despite the denial of a valid fingerprint clearance card if the board determines that the applicant's criminal history information on which the denial was based does not alone disqualify the applicant from licensure.

7. Issue duplicates of lost or destroyed permits on the payment of a fee as prescribed by the board.
8. Adopt rules to rehabilitate pharmacists and pharmacy interns as provided by this chapter.

9. At least once every three months, notify pharmacies regulated pursuant to this chapter of any modifications on prescription writing privileges of podiatrists, dentists, doctors of medicine, registered nurse practitioners, osteopathic physicians, veterinarians, physician assistants, optometrists and homeopathic physicians of which it receives notification from the state board of podiatry examiners, state board of dental examiners, Arizona medical board, Arizona state board of nursing, Arizona board of osteopathic examiners in medicine and surgery, Arizona state veterinary medical examining board, Arizona regulatory board of physician assistants, state board of optometry or board of homeopathic and integrated medicine examiners.

10. Charge a permittee a fee, as determined by the board, for an inspection if the permittee requests the inspection.

11. Issue only one active or open license per individual.

12. Allow a licensee to regress to a lower level license on written explanation and review by the board for discussion, determination and possible action.

13. OPEN AN INVESTIGATION ONLY IF THE IDENTIFYING INFORMATION REGARDING A COMPLAINANT IS PROVIDED OR THE INFORMATION PROVIDED IS SUFFICIENT TO CONDUCT AN INVESTIGATION.

14. PROVIDE NOTICE TO AN APPLICANT, LICENSEE OR PERMITTEE USING ONLY THE INFORMATION PROVIDED TO THE BOARD THROUGH THE BOARD'S LICENSING DATABASE.

B. The board may:

1. Employ chemists, compliance officers, clerical help and other employees subject to title 41, chapter 4, article 4 and provide laboratory facilities for the proper conduct of its business.

2. Provide, by educating and informing the licensees and the public, assistance in curtailing abuse in the use of drugs, devices, poisons and hazardous substances.

3. Approve or reject the manner of storage and security of drugs, devices, poisons and hazardous substances.

4. Accept monies and services to assist in enforcing this chapter from other than licensees:
   (a) For performing inspections and other board functions.
   (b) For the cost of copies of the pharmacy and controlled substances laws, the annual report of the board and other information from the board.

5. Adopt rules for professional conduct appropriate to the establishment and maintenance of a high standard of integrity and dignity in the profession of pharmacy.

6. Grant permission to deviate from a state requirement for MODERNIZATION OF PHARMACY PRACTICE, experimentation and OR technological advances.

7. Adopt rules for the training and practice of pharmacy interns, pharmacy technicians and support personnel.

8. Investigate alleged violations of this chapter, conduct hearings in respect to violations, subpoena witnesses and take such action as it deems necessary to revoke or suspend a license or a permit, place a licensee or permittee on probation or warn a licensee or permittee under this chapter or
to bring notice of violations to the county attorney of the county in which a violation took place or to the attorney general.

9. By rule, approve colleges or schools of pharmacy.

10. By rule, approve programs of practical experience, clinical programs, internship training programs, programs of remedial academic work and preliminary equivalency examinations as provided by this chapter.

11. Assist in the continuing education of pharmacists and pharmacy interns.

12. Issue inactive status licenses as provided by this chapter.

13. Accept monies and services from the federal government or others for educational, research or other purposes pertaining to the enforcement of this chapter.

14. By rule, except from the application of all or any part of this chapter any material, compound, mixture or preparation containing any stimulant or depressant substance included in section 13-3401, paragraph 6, subdivision (c) or (d) from the definition of dangerous drug if the material, compound, mixture or preparation contains one or more active medicinal ingredients not having a stimulant or depressant effect on the central nervous system, provided that such admixtures are included in such combinations, quantity, proportion or concentration as to vitiate the potential for abuse of the substances that do have a stimulant or depressant effect on the central nervous system.

15. Adopt rules for the revocation, suspension or reinstatement of licenses or permits or the probation of licensees or permittees as provided by this chapter.

16. Issue a certificate of free sale to any person that is licensed by the board as a manufacturer for the purpose of manufacturing or distributing food supplements or dietary supplements as defined in rule by the board and that wants to sell food supplements or dietary supplements domestically or internationally. The application shall contain all of the following:

(a) The applicant's name, address, EMAIL address, telephone and fax number.

(b) The product's full, common or usual name.

(c) A copy of the label for each product listed. If the product is to be exported in bulk and a label is not available, the applicant shall include a certificate of composition.

(d) The country of export, if applicable.

(e) The number of certificates of free sale requested.

17. Establish an inspection process to issue certificates of free sale or good manufacturing practice certifications. The board shall establish in rule:

(a) A fee to issue certificates of free sale.

(b) A fee to issue good manufacturing practice certifications.

(c) An annual inspection fee.

18. Delegate to the executive director the authority to:

(a) Void a license or permit application and deem all fees forfeited by the applicant if the applicant provided inaccurate information on the application. The applicant shall have the opportunity to correct the inaccurate information within thirty days after the initial application was reviewed by board staff and the applicant was informed of the inaccuracy.
(a) If the president or vice president of the board concurs after reviewing the case, enter into an interim consent agreement with a licensee or permittee if there is evidence that a restriction against the license or permit is needed to mitigate danger to the public health and safety. The board may subsequently formally adopt the interim consent agreement with any modifications the board deems necessary.

(b) Take no action or dismiss a complaint that has insufficient evidence that a violation of statute or rule governing the practice of pharmacy occurred.

(c) Request an applicant or licensee to provide court documents and police reports if the applicant or licensee has been charged with or convicted of a criminal offense. The executive director may do either of the following if the applicant or licensee fails to provide the requested documents to the board within thirty business days after the request:

(i) Close the application, deem the application fee forfeited and not consider a new application complete unless the requested documents are submitted with the application.

(ii) Notify the licensee of an opportunity for a hearing in accordance with section 41-1061 to consider suspension of the licensee.

(d) Pursuant to section 36-2604, subsection B, review prescription information collected pursuant to title 36, chapter 28, article 1.

C. At each regularly scheduled board meeting, the executive director shall provide to the board a list of the executive director's actions taken pursuant to subsection B, paragraph 1B, subdivisions (a), (c) and (d) of this section since the last board meeting.

D. THE BOARD MAY ISSUE NONDISCIPLINARY CIVIL PENALTIES OR DELEGATE TO THE EXECUTIVE DIRECTOR THE AUTHORITY TO ISSUE NONDISCIPLINARY CIVIL PENALTIES. THE NONDISCIPLINARY CIVIL PENALTIES SHALL BE PRESCRIBED BY THE BOARD IN RULE AND ISSUED USING A BOARD-APPROVED FORM. IF A LICENSEE OR PERMITTEE FAILS TO PAY A NONDISCIPLINARY CIVIL PENALTY THAT THE BOARD HAS IMPOSED ON IT, THE BOARD SHALL HOLD A HEARING ON THE MATTER. IN ADDITION TO ANY OTHER NONDISCIPLINARY CIVIL PENALTY ADOPTED BY THE BOARD, EITHER OF THE FOLLOWING ACTS OR OMISSIONS THAT IS NOT AN IMMINENT THREAT TO THE PUBLIC HEALTH AND SAFETY IS SUBJECT TO A NONDISCIPLINARY CIVIL PENALTY:

1. AN OCCURRENCE OF EITHER OF THE FOLLOWING:

   (a) FAILING TO SUBMIT A REMODEL APPLICATION BEFORE REMODELING A PERMITTED FACILITY.

   (b) FAILING TO NOTIFY THE BOARD OF THE RELOCATION OF A BUSINESS.

2. THE OCCURRENCE OF ANY OF THE FOLLOWING VIOLATIONS OR ANY OF THE VIOLATIONS ADOPTED BY THE BOARD IN RULE, WITH THREE OR MORE VIOLATIONS BEING PRESENTED TO THE BOARD AS A COMPLAINT:

   (a) THE LICENSEE OR PERMITTEE FAILS TO UPDATE THE LICENSEE'S OR PERMITTEE'S ONLINE PROFILE WITHIN TEN DAYS AFTER A CHANGE IN CONTACT INFORMATION, ADDRESS, TELEPHONE NUMBER OR EMAIL ADDRESS.

   (b) THE LICENSEE FAILS TO UPDATE THE LICENSEE'S ONLINE PROFILE WITHIN TEN DAYS AFTER A CHANGE IN EMPLOYMENT.

   (c) THE LICENSEE FAILS TO COMPLETE THE REQUIRED CONTINUING EDUCATION FOR A LICENSE RENEWAL.
(d) THE LICENSEE FAILS TO UPDATE THE LICENSEE'S ONLINE PROFILE TO REFLECT A NEW PHARMACIST IN CHARGE WITHIN FOURTEEN DAYS AFTER THE POSITION CHANGE.

(e) THE PERMITTEE FAILS TO UPDATE THE PERMITTEE'S ONLINE PROFILE TO REFLECT A NEW DESIGNATED REPRESENTATIVE WITHIN TEN DAYS AFTER THE POSITION CHANGE.

(f) THE LICENSEE OR PERMITTEE FAILS TO NOTIFY THE BOARD OF A NEW CRIMINAL CHARGE, ARREST OR CONVICTION AGAINST THE LICENSEE OR PERMITTEE IN THIS STATE OR ANY OTHER JURISDICTION.

(g) THE LICENSEE OR PERMITTEE FAILS TO NOTIFY THE BOARD OF A DISCIPLINARY ACTION TAKEN AGAINST THE LICENSEE OR PERMITTEE BY ANOTHER REGULATING AGENCY IN THIS STATE OR ANY OTHER JURISDICTION.

(h) A LICENSEE OR PERMITTEE FAILS TO RENEW A LICENSE OR PERMIT WITHIN SIXTY DAYS AFTER THE LICENSE OR PERMIT EXPIRES. IF MORE THAN SIXTY DAYS HAVE LAPSED AFTER THE EXPIRATION OF A LICENSE OR PERMIT, THE LICENSEE OR PERMITTEE SHALL APPEAR BEFORE THE BOARD.

(i) A NEW PHARMACIST IN CHARGE FAILS TO CONDUCT A CONTROLLED SUBSTANCE INVENTORY WITHIN TEN DAYS AFTER STARTING THE POSITION.

(j) A PERSON FAILS TO OBTAIN A PERMIT BEFORE SHIPPING INTO THIS STATE ANYTHING THAT REQUIRES A PERMIT PURSUANT TO THIS CHAPTER.

(k) ANY OTHER VIOLATIONS OF STATUTE OR RULE THAT THE BOARD OR THE BOARD'S DESIGNEE DEEMS APPROPRIATE FOR A NONDISCIPLINARY CIVIL PENALTY.

E. The board shall develop substantive policy statements pursuant to section 41-1091 for each specific licensing and regulatory authority the board delegates to the executive director.

F. The executive director and other personnel or agents of the board are not subject to civil liability for any act done or proceeding undertaken or performed in good faith and in furtherance of the purposes of this chapter.
EXPLANATION OF BLEND
SECTION 32-2071.01

Laws 2021, Chapters 210 and 237

Laws 2021, Ch. 210, section 3  Effective September 29, 2021
Laws 2021, Ch. 237, section 1  Effective September 29, 2021

Explanation

Since these two enactments are compatible, the Laws 2021, Ch. 210 and Ch. 237 text changes to section 32-2071.01 are blended in the form shown on the following page.
32-2071.01. Requirements for licensure: remediation: credentials
A. An applicant for licensure shall demonstrate to the board's satisfaction that the applicant:
1. Has met the education and training qualifications for licensure prescribed in section 32-2071 or subsection D of this section.
2. Has passed any examination or examinations required by section 32-2072.
3. Has a professional record that indicates that the applicant has not committed any act or engaged in any conduct that constitutes grounds for disciplinary action against a licensee pursuant to this chapter.
4. Has not had a license or a certificate to practice psychology refused, revoked, suspended or restricted by a state, territory, district or country for reasons that relate to unprofessional conduct.
5. Has not voluntarily surrendered a license in another regulatory jurisdiction in the United States or Canada while under investigation for conduct that relates to unprofessional conduct.
6. Does not have a complaint, allegation or investigation pending before another regulatory jurisdiction in the United States or Canada that relates to unprofessional conduct.
7. Beginning January 1, 2022, has applied for a fingerprint clearance card pursuant to Title 41, Chapter 12, Article 3.1.
B. If the board finds that an applicant committed an act or engaged in conduct that would constitute grounds for disciplinary action in this state, or if the board or any jurisdiction has taken disciplinary action against an applicant, the board may issue a license if the board first determines to its satisfaction that the act or conduct has been corrected, monitored or resolved. If the act or conduct has not been resolved before issuing a license, the board must determine to its satisfaction that mitigating circumstances exist that prevent its resolution.
C. An applicant for licensure meets the requirements of section 32-2071, subsection A, paragraphs 1, 2, 3, 4, 5, 6 and 8 if the applicant earned a doctoral degree from a program that was accredited by the American psychological association, office of program consultation and accreditation, or the psychological clinical science accreditation system at the time of graduation.
D. An applicant for licensure who is licensed to practice psychology at the independent level in another licensing jurisdiction of the United States or Canada meets the requirements of subsection A, paragraph 1 of this section if the applicant meets any of the following requirements:
1. Holds a certificate of professional qualification in psychology in good standing issued by the association of state and provincial psychology boards or its successor.
2. Is currently credentialed by the national register of health service providers in psychology or its successor and submits evidence of having practiced psychology independently at the doctoral level for a minimum of five years.
3. Is a diplomate of the American board of professional psychology.
EXPLANATION OF BLEND
SECTION 32-3430

Laws 2021, Chapters 301 and 323

Laws 2021, Ch. 301, section 8  Effective January 1, 2022
Laws 2021, Ch. 323, section 1  Effective January 1, 2022

Explanation

Since these two enactments are identical, the Laws 2021, Ch. 301 and Ch. 323 text changes to section 32-3430 are blended effective from and after December 31, 2021 in the form shown on the following page.
BLEND OF SECTION 32-3430
Laws 2021, Chapters 301 and 323

32-3430. Fingerprinting: requirement

A. Each applicant for original licensure, license renewal, license reinstatement or a limited license pursuant to this chapter who has not previously done so shall submit a full set of fingerprints to the board at the applicant's or licensee's expense for the purpose of obtaining a state and federal criminal records check pursuant to section 41-1750 and Public Law 92-544. The department of public safety may exchange this fingerprint data with the federal bureau of investigation.

B. If the board does not have any evidence or reasonable suspicion that the applicant has a criminal history and the applicant otherwise satisfies the requirements of section 32-3429, the board may issue a license or a limited license before it receives the results of a criminal records check.

C. The board shall suspend a license or a limited license of a person who submits an unreadable set of fingerprints and does not submit a new readable set of fingerprints within twenty days after being notified by the board.

A. BEGINNING JANUARY 1, 2022, AN APPLICANT FOR ORIGINAL LICENSURE, LICENSE RENEWAL, LICENSE REINSTATEMENT OR A LIMITED LICENSE PURSUANT TO THIS CHAPTER SHALL POSSESS A VALID FINGERPRINT CLEARANCE CARD ISSUED PURSUANT TO TITLE 41, CHAPTER 12, ARTICLE 3.1.

B. This section does not affect the board's authority to otherwise issue, deny, cancel, terminate, suspend or revoke a license or a limited license.
EXPLANATION OF BLEND
SECTION 35-454

Laws 2021, Chapters 131 and 184

Laws 2021, Ch. 131, section 1
Effective September 29, 2021

Laws 2021, Ch. 184, section 3
Effective September 29, 2021

Explanation

Since these two enactments are compatible, the Laws 2021, Ch. 131 and Ch. 184 text changes to section 35-454 are blended in the form shown on the following pages.
35-454. **Informational pamphlet for bond election; review; ballot; election; return; canvass of votes; certificate of election**

A. The governing body or board of the political subdivision shall:

1. **Not less than** AT LEAST thirty-five days before the bond election, mail a copy of an informational pamphlet to every household within the political subdivision that contains a registered voter. The pamphlet shall contain information on the:
   (a) Amount of the bond authorization.
   (b) Maximum interest rate of the bonds.
   (c) Estimated debt retirement schedule for the current amount of bonds outstanding, showing both principal and interest payments, the current net assessed valuation as reported by the department of revenue and the current adopted and estimated tax rates. For the purposes of this paragraph, "net assessed valuation" may include the values used to determine voluntary contributions collected pursuant to title 9, chapter 4, article 3 and title 48, chapter 1, article 8.
   (d) Estimated debt retirement schedule for the proposed bond authorization, showing both the estimated principal and interest payments and the estimated average annual tax rate for the proposed bond authorization. In preparing this information and the information prescribed by subdivision (c) of this paragraph, the projected total annual increase in net assessed valuation for any future year shall not exceed:
      (i) For the first five years of the estimated debt retirement schedule, the average of the annual percentage growth for the previous ten years in the net assessed valuation of the political subdivision.
      (ii) For the remaining years of the estimated debt retirement schedule, twenty percent of the average of the annual percentage growth for the previous ten years in the net assessed valuation of the political subdivision.
   (e) Source of repayment.
   (f) Estimated issuance costs.
   (g) Estimated tax impact of debt service for the bonds on an owner-occupied residence classified as class three pursuant to section 42-12003, on commercial property classified as class one pursuant to section 42-12001, paragraph 12 and on agricultural or other vacant property classified as class two pursuant to section 42-12002, assuming the net assessed valuation of the property increases annually at the lesser of five percent or fifty percent of the projected total annual increase in net assessed valuation as determined pursuant to subdivision (d) of this paragraph over the term of the bonds using the same average annual tax rate as under subdivision (d) of this paragraph, as follows:
The tax impact over the term of the bonds on an owner-occupied residence valued by the county assessor at $250,000 is estimated to be $___ per year for ___ years, or $____ total cost.

The tax impact over the term of the bonds on commercial property valued by the county assessor at $1,000,000 is estimated to be $___ per year for ___ years, or $____ total cost.

The tax impact over the term of the bonds on agricultural or other vacant property valued by the county assessor at $100,000 is estimated to be $___ per year for ___ years, or $____ total cost.

(h) In bold-faced type, estimated total cost of the proposed bond authorization, including principal and interest.

(i) Current outstanding general obligation debt and constitutional debt limitation.

(j) Projects and expenditures for which the bonds are to be issued. The purpose statement shall only present factual information in a neutral manner. Advocacy for the expenditures is strictly limited to the arguments submitted pursuant to subdivision (n) of this paragraph.

(k) Purpose for which the bonds are to be issued and, if applicable, in bold-faced type, that the amount of the proposed bond authorization combined with the current outstanding debt exceeds the political subdivision's constitutional debt limit.

(l) Polling location for the addressee.

(m) Hours during the day when the polls will be open.

(n) Arguments for and against the authorization of one or more of the bond propositions. EACH ARGUMENT FILED SHALL CONTAIN THE SWORN STATEMENT OF THE PERSON SUBMITTING IT. IF THE ARGUMENT IS SUBMITTED BY AN ORGANIZATION, IT SHALL CONTAIN THE SWORN STATEMENT OF TWO EXECUTIVE OFFICERS OF THE ORGANIZATION. IF THE ARGUMENT IS SUBMITTED BY A POLITICAL COMMITTEE, IT SHALL CONTAIN THE SWORN STATEMENT OF THE COMMITTEE'S CHAIRPERSON OR TREASURER. IF THE ARGUMENT IS SUBMITTED BY AN INDIVIDUAL AND NOT ON BEHALF OF AN ORGANIZATION, A POLITICAL COMMITTEE OR ANY OTHER GROUP, THE PERSON SHALL SUBMIT THE ARGUMENT WITH A SWORN, NOTARIZED STATEMENT. THE NAMES OF PERSONS AND ENTITIES SUBMITTING WRITTEN ARGUMENTS SHALL BE INCLUDED IN THE INFORMATIONAL PAMPHLET. PERSONS SIGNING THE ARGUMENT SHALL IDENTIFY THEMSELVES BY GIVING THEIR RESIDENCE ADDRESS AND TELEPHONE NUMBER, WHICH MAY NOT APPEAR IN THE INFORMATIONAL PAMPHLET, EXCEPT THAT THE PERSON'S CITY OR TOWN AND STATE OF RESIDENCE SHALL APPEAR IN THE PAMPHLET. ANY ARGUMENT THAT IS SUBMITTED AND THAT DOES NOT COMPLY WITH THIS SUBDIVISION MAY NOT BE INCLUDED IN THE PAMPHLET.

2. Set a deadline to submit arguments for and against the authorization of one or more of the bond propositions at a public meeting and publish the deadline in a newspaper of general circulation in the jurisdiction of the political subdivision.

3. Submit a copy of the informational pamphlet to the department of revenue within thirty days after the bond election. The department of revenue shall maintain copies of the pamphlets.
B. The failure of any one or more electors to receive the informational pamphlet shall not be grounds to invalidate the election. The election shall conform with the general election laws of the THIS state. The return of the election held in a county shall be made to the board of supervisors and, in any other case, to the governing body or board of the municipal corporation or district within twelve days after the election.

C. For any proposed general obligation bond authorization where FOR WHICH the principal and interest will be paid by a levy of property taxes, the ballot shall contain the phrase "the issuance of these bonds will result in a property tax increase sufficient to pay the annual debt service on bonds". Any written information provided by the political subdivision pertaining to the bond election shall include financial information showing the estimated average tax rate for the proposed bond authorization. If the bonds are to be repaid with secondary property taxes, the ballot shall contain the words "bond approval, yes" and "bond approval, no", and the voter shall signify the voter's desired choice. The ballot shall also contain the following statement:

A "yes" vote shall authorize the _____ governing body to issue and sell $_______ of _____ bonds of the district to be repaid with secondary property taxes.

A "no" vote shall not authorize the _____ governing body to issue and sell such bonds of the district.

D. If the governing body intends to use revenues other than property taxes to pay the debt on proposed general obligation bonds, the ballot shall contain the phrase "the issuance of these bonds will result in a property tax increase sufficient to pay the annual debt service on bonds, unless the governing body provides for payment from other sources".

E. The board of supervisors, governing body or governing board shall hold a special meeting within twenty days after the election to canvass the votes cast and certify the result. The certificate of the result shall be prima facie evidence of full performance of all conditions and requirements precedent to holding the election.

F. The governing board or body shall file and record in the office of the county recorder a certificate disclosing the purpose of the election, the total number of votes cast and the total number of votes for and against creating the indebtedness, and stating whether or not the indebtedness is ordered. Upon ON filing and recording the certificate, the governing board or body shall carry out the purpose of the election.

G. Variations between the estimates required by subsection A of this section and the actual debt retirement schedules, issuance costs, annual and total costs and tax rates shall not invalidate either the election or the bonds.
EXPLANATION OF BLEND
SECTION 36-405

Laws 2021, Chapters 363 and 405

Laws 2021, Ch. 363, section 1     Effective September 29, 2021
Laws 2021, Ch. 405, section 10    Effective September 29, 2021

Explanation

Since these two enactments are compatible, the Laws 2021, Ch. 363 and Ch. 405 text changes to section 36-405 are blended in the form shown on the following pages.
36-405. Powers and duties of the director

A. The director shall adopt rules to establish minimum standards and requirements for the construction, modification constructing, modifying and licensure of licensing health care institutions necessary to ensure the public health, safety and welfare. The standards and requirements shall relate to the construction, equipment, sanitation, staffing for medical, nursing and personal care services, and recordkeeping pertaining to the administration of administering medical, nursing, behavioral health and personal care services, in accordance with generally accepted practices of health care. The standards shall require that a physician who is licensed pursuant to title 32, chapter 13 or 17 medically discharge patients from surgery and shall allow an outpatient surgical center to require that either an anesthesia provider who is licensed pursuant to title 32, chapter 13, 15 or 17 or a physician who is licensed pursuant to title 32, chapter 13 or 17 remain present on the premises until all patients are discharged from the recovery room. Except as otherwise provided in this subsection, the director shall use the current standards adopted by the joint commission on accreditation of hospitals and the commission on accreditation of the American osteopathic association or those adopted by any recognized accreditation organization approved by the department as guidelines in prescribing minimum standards and requirements under this section.

B. The director, by rule, may:

1. Classify and subclassify health care institutions according to character, size, range of services provided, medical or dental specialty offered, duration of care and standard of patient care required for the purposes of licensure. Classes of health care institutions may include hospitals, infirmaries, outpatient treatment centers, health screening services centers and residential care facilities. Whenever the director reasonably deems distinctions in rules and standards to be appropriate among different classes or subclasses of health care institutions, the director may make such distinctions.

2. Prescribe standards for determining a health care institution's substantial compliance with licensure requirements.

3. Prescribe the criteria for the licensure inspection process.

4. Prescribe standards for the selection of selecting health care-related demonstration projects.

5. Establish nonrefundable application and licensing fees for health care institutions, including a grace period and a fee for the late payment of licensing fees, and fees for architectural plans and specifications reviews.

6. Establish a process for the department to notify a licensee of the licensee's licensing fee due date.

7. Establish a process for a licensee to request a different licensing fee due date, including any limits on the number of requests by the licensee.
C. The director, by rule, shall adopt licensing provisions that facilitate the colocation and integration of outpatient treatment centers that provide medical, nursing and health-related services with behavioral health services consistent with article 3.1 of this chapter.

D. THE DIRECTOR MAY ADOPT RULES REGARDING THE COLLECTION OF DATA FROM HEALTH CARE INSTITUTIONS.

E. Ninety percent of the fees collected pursuant to this section shall be deposited, pursuant to sections 35-146 and 35-147, in the health services licensing fund established by section 36-414 and ten percent of the fees collected pursuant to this section shall be deposited, pursuant to sections 35-146 and 35-147, in the state general fund.

F. Subsection B, paragraph 5 of this section does not apply to a health care institution operated by a state agency pursuant to state or federal law or to adult foster care residential settings.
EXPLANATION OF BLEND
SECTION 36-664

Laws 2021, Chapters 119 and 219

Laws 2021, Ch. 119, section 9  Effective September 29, 2021

Laws 2021, Ch. 219, section 3  Effective April 9, 2021

Explanation

Since these two enactments are compatible, the Laws 2021, Ch. 119 and Ch. 219 text changes to section 36-664 are blended in the form shown on the following pages.
36-664. Confidentiality: exceptions

A. A person who obtains communicable disease related information in the course of providing a health service or obtains that information from a health care provider pursuant to an authorization shall not disclose or be compelled to disclose that information except as authorized by state or federal law, including the health insurance portability and accountability act privacy standards (45 Code of Federal Regulations part 160 and part 164, subpart E), or pursuant to the following:

1. The protected person or, if the protected person lacks capacity to consent, the protected person's health care decision maker.

2. A health care provider or first responder who has had an occupational significant exposure risk to the protected person's blood or bodily fluid if the health care provider or first responder provides a written request that documents the occurrence and information regarding the nature of the occupational significant exposure risk and the report is reviewed and confirmed by a health care provider who is both licensed pursuant to title 32, chapter 13, [14.] 15 or 17 and competent to determine a significant exposure risk. A health care provider who releases communicable disease information pursuant to this paragraph shall provide education and counseling to the person who has had the occupational significant exposure risk.

3. The department or a local health department for purposes of notifying a Good Samaritan pursuant to subsection E of this section.

4. An agent or employee of a health facility or health care provider to provide health services to the protected person or the protected person's child or for billing or reimbursement for health services.

5. A health facility or health care provider, in relation to the procurement, processing, distributing or use of a human body or a human body part, including organs, tissues, eyes, bones, arteries, blood, semen, milk or other body fluids, for use in medical education, research or therapy or for transplantation to another person.

6. A health facility or health care provider, or an organization, committee or individual designated by the health facility or health care provider, that is engaged in the review of professional practices, including the review of the quality, utilization or necessity of medical care, or an accreditation or oversight review organization responsible for the review of professional practices at a health facility or by a health care provider.

7. A private entity that accredits the health facility or health care provider and with whom the health facility or health care provider has an agreement requiring the agency to protect the confidentiality of patient information.

8. A federal, state, county or local health officer if disclosure is mandated by federal or state law.
9. A federal, state or local government agency authorized by law to receive the information. The agency is authorized to redisclose the information only pursuant to this article or as otherwise permitted by law.

10. An authorized employee or agent of a federal, state or local government agency that supervises or monitors the health care provider or health facility or administers the program under which the health service is provided. An authorized employee or agent includes only an employee or agent who, in the ordinary course of business of the government agency, has access to records relating to the care or treatment of the protected person.

11. A person, health care provider or health facility to which disclosure is ordered by a court or administrative body pursuant to section 36-665.

12. The industrial commission of Arizona or parties to an industrial commission of Arizona claim pursuant to section 23-908, subsection D and section 23-1043.02.

13. Insurance entities pursuant to section 20-448.01 and third-party payors or the payors' contractors.

14. Any person or entity as authorized by the patient or the patient's health care decision maker.

15. A person or entity as required by federal law.

16. The legal representative of the entity holding the information in order to secure legal advice.

17. A person or entity for research only if the research is conducted pursuant to applicable federal or state laws and regulations governing research.

18. A person or entity that provides services to the patient's health care provider, as defined in section 12-2291, and with whom the health care provider has a business associate agreement that requires the person or entity to protect the confidentiality of patient information as required by the health insurance portability and accountability act privacy standards (45 Code of Federal Regulations part 164, subpart E).

19. A county medical examiner or an alternate medical examiner directing an investigation into the circumstances surrounding a death pursuant to section 11-593.

B. At the request of the department of child safety or the department of economic security and in conjunction with the placement of children in foster care or for adoption or court-ordered placement, a health care provider shall disclose communicable disease information, including HIV-related information, to the department of child safety or the department of economic security.

C. A state, county or local health department or officer may disclose communicable disease related information if the disclosure is any of the following:

1. Specifically authorized or required by federal or state law.

2. Made pursuant to an authorization signed by the protected person or the protected person's health care decision maker.

3. Made to a contact of the protected person. The disclosure shall be made without identifying the protected person.

4. For the purposes of research as authorized by state and federal law.
5. TO A NONPROFIT HEALTH INFORMATION ORGANIZATION AS DEFINED IN SECTION 36-3801 THAT IS DESIGNATED BY THE DEPARTMENT AS THIS STATE'S OFFICIAL HEALTH INFORMATION EXCHANGE ORGANIZATION.

D. The director may authorize the release of information that identifies the protected person to the national center for health statistics of the United States public health service for the purposes of conducting a search of the national death index.

E. The department or a local health department shall disclose communicable disease related information to a Good Samaritan who submits a request to the department or the local health department. The request shall document the occurrence of the accident, fire or other life-threatening emergency and shall include information regarding the nature of the significant exposure risk. The department shall adopt rules that prescribe standards of significant exposure risk based on the best available medical evidence. The department shall adopt rules that establish procedures for processing requests from Good Samaritans pursuant to this subsection. The rules shall provide that the disclosure to the Good Samaritan shall not reveal the protected person's name and shall be accompanied by a written statement that warns the Good Samaritan that the confidentiality of the information is protected by state law.

F. An authorization to release communicable disease related information shall be signed by the protected person or, if the protected person lacks capacity to consent, the protected person's health care decision maker. An authorization shall be dated and shall specify to whom disclosure is authorized, the purpose for disclosure and the time period during which the release is effective. A general authorization for the release of medical or other information, including communicable disease related information, is not an authorization for the release of HIV-related information unless the authorization specifically indicates its purpose as an authorization for the release of confidential HIV-related information and complies with the requirements of this section.

G. A person to whom communicable disease related information is disclosed pursuant to this section shall not disclose the information to another person except as authorized by this section. This subsection does not apply to the protected person or a protected person's health care decision maker.

H. This section does not prohibit the listing of communicable disease related information, including acquired immune deficiency syndrome, HIV-related illness or HIV infection, in a certificate of death, autopsy report or other related document that is prepared pursuant to law to document the cause of death or that is prepared to release a body to a funeral director. This section does not modify a law or rule relating to access to death certificates, autopsy reports or other related documents.

I. If a person in possession of HIV-related information reasonably believes that an identifiable third party is at risk of HIV infection, that person may report that risk to the department. The report shall be in writing and include the name and address of the identifiable third party and the name and address of the person making the report. The department shall contact the person at risk pursuant to rules adopted by the department. The department employee making the initial contact shall have expertise in
counseling persons who have been exposed to or tested positive for HIV or acquired immune deficiency syndrome.

J. Except as otherwise provided pursuant to this article or subject to an order or search warrant issued pursuant to section 36-665, a person who receives HIV-related information in the course of providing a health service or pursuant to a release of HIV-related information shall not disclose that information to another person or legal entity or be compelled by subpoena, order, search warrant or other judicial process to disclose that information to another person or legal entity.

K. This section and sections 36-663, 36-666, 36-667 and 36-668 do not apply to persons or entities subject to regulation under title 20.
EXPLANATION OF BLEND
SECTION 36-787

Laws 2021, Chapters 367 and 405

Laws 2021, Ch. 367, section 2                                  Effective September 29, 2021
Laws 2021, Ch. 405, section 11                                  Effective September 29, 2021

Explanation

Since these two enactments are compatible, the Laws 2021, Ch. 367 and Ch. 405 text changes to section 36-787 are blended in the form shown on the following pages.

The Laws 2021, Ch. 367 version of section 36-787, subsection A, paragraph 6 did not strike the second "for". The Ch. 405 version struck the second "for". Since this would not produce a substantive change, the blend version reflects the Ch. 405 version.
36-787. Public health authority during state of emergency or state of war emergency; notices; appeals

A. During a state of emergency or state of war emergency declared PROCLAIMED by the governor in which there is an occurrence or imminent threat of an illness or health condition THAT IS caused by bioterrorism, an epidemic or pandemic disease or a highly fatal infectious agent or biological toxin and that poses a substantial risk of a significant number of human fatalities or incidents of permanent or long-term disability, the department shall coordinate all matters pertaining to the public health emergency response of the state. The department has primary jurisdiction, responsibility and authority for:

1. Planning and executing public health emergency assessment, mitigation, preparedness response and recovery for this state.
2. Coordinating public health emergency response among state, local and tribal authorities.
3. Collaborating with relevant federal government authorities, elected officials of other states, private organizations and private sector companies.
4. Coordinating recovery operations and mitigation initiatives subsequent to public health emergencies.
5. Organizing public information activities regarding state public health emergency response operations.
6. Establishing, in conjunction with applicable professional licensing boards, a process for TO GRANT A temporary waiver of the professional licensure requirements necessary for the implementation of TO IMPLEMENT any measures required to adequately address the state of emergency or state of war emergency.
7. Granting temporary waivers of health care institution licensure requirements necessary for implementation of TO IMPLEMENT any measures required to adequately address the state of emergency or state of war emergency.

B. In addition to the authority provided in subsection A of this section, during a state of emergency or state of war emergency, the governor, in consultation with the director of the department of health services, may issue orders that:

1. Mandate medical examinations for exposed persons.
2. Ration medicine and vaccines.
3. Provide for transportation of medical support personnel and ill and exposed persons.
4. Provide for procurement of medicines and vaccines.

C. In addition to the authority provided in subsections A and B OF THIS SECTION, during a state of emergency or state of war emergency in which there is an occurrence or the imminent threat of smallpox, plague, viral hemorrhagic fevers or a highly contagious and highly fatal disease
with transmission characteristics similar to smallpox, the governor, in consultation with the director of the department of health services, may issue orders that:

1. Mandate treatment or vaccination of persons who are diagnosed with an illness resulting from exposure or who are reasonably believed to have been exposed or who may reasonably be expected to be exposed. A PERSON MAY REFUSE A VACCINATION REQUIRED BY THIS PARAGRAPH BASED ON THE PERSON'S PERSONAL BELIEFS.

2. Isolate and quarantine persons.

D. Law enforcement officials of this state and the national guard shall enforce orders issued by the governor under this section.

E. Diseases subject to this section do not include acquired immune deficiency syndrome or ANY other infection caused by the human immunodeficiency virus.

F. If during a state of emergency or state of war emergency the public health is not endangered, nothing in this title shall authorize the department or any of its officers or representatives to impose on any person against the person’s will any mode of treatment, provided that sanitary or preventive measures and quarantine laws are complied with by the person. Nothing in this title shall authorize the department or any of its officers or representatives to impose on any person contrary to THE PERSON’S religious concepts any mode of treatment, provided that sanitary or preventive measures and quarantine laws are complied with by the person.

G. At the governor’s direction, the department may use reasonable efforts to assist the persons and institutions affected by the state of emergency or state of war emergency declared PROCLAIMED pursuant to this section in seeking reimbursement of costs incurred as a result of providing services related to the implementation of IMPLEMENTING isolation and quarantine under this article to the extent these services are not otherwise subject to reimbursement.

H. THIS SECTION DOES NOT ALLOW THE DEPARTMENT, ANY OTHER STATE AGENCY OR A CITY, TOWN OR COUNTY TO PERMANENTLY REVOCES ANY LICENSE HELD BY A BUSINESS OR USED TO OPERATE A BUSINESS FOR NOT COMPLYING WITH AN ORDER ISSUED BY THE GOVERNOR PURSUANT TO THIS SECTION UNLESS THE DEPARTMENT, OTHER STATE AGENCY, CITY, TOWN OR COUNTY CAN DEMONSTRATE BY CLEAR AND CONVINCING EVIDENCE THAT THE BUSINESS CAUSED THE TRANSMISSION OF THE DISEASE THAT IS THE SUBJECT OF THE ORDER DUE TO THE BUSINESS'S WILFUL MISCONDUCT OR GROSS NEGLIGENCE.

I. BEFORE A STATE AGENCY, CITY, TOWN OR COUNTY SUSPENDS OR PERMANENTLY REVOKES, PURSUANT TO SUBSECTION H OF THIS SECTION, A LICENSE HELD BY A BUSINESS OR USED TO OPERATE A BUSINESS, THE STATE AGENCY, CITY, TOWN OR COUNTY SHALL PROVIDE THE BUSINESS WITH BOTH OF THE FOLLOWING:

1. A WRITTEN NOTICE OF NONCOMPLIANCE DELIVERED BY PERSONAL SERVICE OR CERTIFIED MAIL.

2. A WRITTEN NOTICE OF INTENT TO SUSPEND OR PERMANENTLY REVOKE THE LICENSE AT LEAST THIRTY DAYS AFTER THE DATE OF THE NOTICE OF NONCOMPLIANCE PROVIDED PURSUANT TO PARAGRAPH 1 OF THIS SUBSECTION. THE STATE AGENCY, CITY, TOWN OR COUNTY SHALL PRESENT ANY NEW EVIDENCE OF GROUNDS FOR REVOCATION IN THE WRITTEN NOTICE REQUIRED BY THIS
A BUSINESS THAT RECEIVES A NOTICE PURSUANT TO THIS PARAGRAPH AND DISPUTES THE CLAIM SHALL RESPOND TO THE STATE AGENCY, CITY, TOWN OR COUNTY WITHIN TWENTY DAYS AFTER RECEIVING THE NOTICE.

J. ANY DISPUTE RELATING TO THE SUSPENSION OR PERMANENT REVOCATION OF A LICENSE HELD BY A BUSINESS OR USED TO OPERATE A BUSINESS SHALL BE RESOLVED BY A COURT OF COMPETENT JURISDICTION IN THIS STATE. A STATE AGENCY, CITY, TOWN OR COUNTY MAY NOT SUSPEND OR PERMANENTLY REVOKE A LICENSE HELD BY A BUSINESS OR USED TO OPERATE A BUSINESS UNTIL THE BUSINESS HAS RECEIVED BOTH NOTICES PRESCRIBED IN SUBSECTION I OF THIS SECTION AND ALL APPEALS HAVE BEEN EXHAUSTED. THE COURT MAY AWARD REASONABLE ATTORNEY FEES AND DAMAGES TO A BUSINESS IN AN ACTION RELATING TO THE SUSPENSION OR PERMANENT REVOCATION OF A LICENSE HELD BY A BUSINESS OR USED TO OPERATE A BUSINESS.
EXPLANATION OF BLEND
SECTION 36-2604

Laws 2021, Chapters 226 and 239

Laws 2021, Ch. 226, section 15  Effective September 29, 2021
Laws 2021, Ch. 239, section 1  Effective September 29, 2021

Explanation

Since these two enactments are compatible, the Laws 2021, Ch. 226 and Ch. 239 text changes to section 36-2604 are blended in the form shown on the following pages.
36-2604. Use and release of confidential information; definitions

A. Except as otherwise provided in this section, prescription information submitted to the board pursuant to this article is confidential and is not subject to public inspection. The board shall establish procedures to ensure the privacy and confidentiality of patients and that patient information that is collected, recorded and transmitted pursuant to this article is not disclosed except as prescribed in this section.

B. The board or its designee shall review the prescription information collected pursuant to this article. If the board or its designee has reason to believe an act of unprofessional or illegal conduct has occurred, the board or its designee shall notify the appropriate professional licensing board or law enforcement or criminal justice agency and provide the prescription information required for an investigation. The board may delegate the duties prescribed in this subsection to the executive director pursuant to section 32-1904.

C. The board may release data collected by the program to the following:

1. A person who is authorized to prescribe or dispense controlled substance substances, or a delegate who is authorized by the prescriber or dispenser, to assist that person to provide medical or pharmaceutical care to a patient or to evaluate a patient or to assist with or verify compliance with the requirements of this chapter, the rules adopted pursuant to this chapter and the rules adopted by the department of health services to reduce opioid overdose and death.

2. An individual who requests the individual's own prescription monitoring information pursuant to section 12-2293.

3. A medical practitioner regulatory board established pursuant to title 32, chapter 7, 11, 13, 14, 15, 16, 17, 18, 25 or 29.

4. A local, state or federal law enforcement or criminal justice agency. Except as required pursuant to subsection B of this section, the board shall provide this information only if the requesting agency states in writing that the information is necessary for an open investigation or complaint.

5. The Arizona health care cost containment system administration and contractors regarding persons who are receiving services pursuant to chapters 29 and 34 of this title or title XVIII of the social security act. Except as required pursuant to subsection B of this section, the board shall provide this information only if the administration or a contractor states in writing that the information is necessary for an open investigation or complaint, or for performing a drug utilization review for controlled substances to help combat that supports the prevention of opioid overuse or abuse or for ensuring the continuity of care and the safety and quality of care provided to the member.
6. A HEALTH CARE INSURER, EXCEPT AS REQUIRED PURSUANT TO SUBSECTION B OF THIS SECTION, THE BOARD SHALL PROVIDE THIS INFORMATION ONLY IF THE HEALTH CARE INSURER STATES IN WRITING THAT THE INFORMATION IS NECESSARY FOR AN OPEN INVESTIGATION OR COMPLAINT OR FOR PERFORMING A DRUG UTILIZATION REVIEW FOR CONTROLLED SUBSTANCES THAT SUPPORTS THE PREVENTION OF OPIOID OVERUSE OR ABUSE AND THE SAFETY AND QUALITY OF CARE PROVIDED TO THE INSURED.

7. A person who is serving a lawful order of a court of competent jurisdiction.

8. A person who is authorized to prescribe or dispense control substance SUBSTANCES and who performs an evaluation on an individual pursuant to section 23-1026.

9. A county medical examiner or alternate medical examiner who is directing an investigation into the circumstances surrounding a death as described in section 11-593 or a delegate who is authorized by the county medical examiner or alternate medical examiner.

10. The department of health services regarding persons who are receiving or prescribing controlled substances in order to implement a public health response to address opioid overuse or abuse, including a review pursuant to section 36-198. Except as required pursuant to subsection B of this section, the board shall provide this information only if the department states in writing that the information is necessary to implement a public health response to help combat opioid overuse or abuse.

D. DATA PROVIDED BY THE BOARD PURSUANT TO THIS SECTION MAY NOT BE USED FOR ANY OF THE FOLLOWING:

1. CREDENTIALING HEALTH CARE PROFESSIONALS.
2. DETERMINING PAYMENT.
3. PREEMPLOYMENT SCREENING.
4. ANY PURPOSE OTHER THAN AS SPECIFIED IN THIS SECTION.

E. FOR A FEE DETERMINED BY THE BOARD, the board may provide data to public or private entities for statistical, research or educational purposes after removing information that could be used to identify individual patients or persons who received prescriptions from dispensers.

F. ANY EMPLOYEE OF THE ADMINISTRATION, A CONTRACTOR OR A HEALTH CARE INSURER WHO IS ASSIGNED DELEGATE ACCESS TO THE PROGRAM SHALL OPERATE UNDER THE AUTHORITY AND RESPONSIBILITY OF THE ADMINISTRATION'S, CONTRACTOR'S OR HEALTH CARE INSURER'S CHIEF MEDICAL OFFICER OR OTHER EMPLOYEE WHO IS A LICENSED HEALTH CARE PROFESSIONAL AND WHO IS AUTHORIZED TO PRESCRIBE OR DISPENSE CONTROLLED SUBSTANCES. A DELEGATE OF THE ADMINISTRATION, A CONTRACTOR OR A HEALTH CARE INSURER SHALL HOLD A VALID LICENSE OR CERTIFICATION ISSUED PURSUANT TO TITLE 32, CHAPTER 7, 11, 13, 14, 15, 16, 17, 18, 19.1, 25, 29 OR 33 AS A CONDITION OF BEING ASSIGNED AND PROVIDED DELEGATE ACCESS TO THE PROGRAM BY THE BOARD. EACH EMPLOYEE OF THE ADMINISTRATION, A CONTRACTOR OR A HEALTH CARE INSURER WHO IS A LICENSED HEALTH CARE PROFESSIONAL AND WHO IS AUTHORIZED TO PRESCRIBE OR DISPENSE CONTROLLED SUBSTANCES MAY AUTHORIZE NOT MORE THAN TEN DELEGATES.
A person who is authorized to prescribe or dispense controlled substances or the chief medical officer [OR OTHER LICENSED HEALTH CARE PROFESSIONAL of the administration, OR a contractor OR A HEALTH CARE INSURER WHO IS AUTHORIZED TO PRESCRIBE OR DISPENSE CONTROLLED SUBSTANCES] shall deactivate a delegate within five business days after an employment status change, the request of the delegate or the inappropriate use of the controlled substances prescription monitoring program's central database tracking system.

For the purposes of this section:
1. "Administration" and "contractor" have the same meanings prescribed in section 36-2901.
2. "Delegate" means any of the following:
   (a) A licensed health care professional who is employed in the office of or in a hospital with the prescriber or dispenser.
   (b) An unlicensed medical records technician, medical assistant or office manager who is employed in the office of or in a hospital with the prescriber or dispenser and who has received training regarding both the health insurance portability and accountability act privacy standards (45 Code of Federal Regulations part 164, subpart E) and security standards (45 Code of Federal Regulations part 164, subpart C).
   (c) A forensic pathologist, medical death investigator or other qualified person who is assigned duties in connection with a death investigation pursuant to section 11-594.
   (d) A licensed pharmacy technician trainee, pharmacy technician or pharmacy intern who works in a facility with the dispenser.
   (e) Any employee of the administration, OR a contractor OR A HEALTH CARE INSURER who is authorized by the administration's, OR contractor's OR HEALTH CARE INSURER'S chief medical officer OR OTHER LICENSED HEALTH CARE PROFESSIONAL WHO IS AUTHORIZED TO PRESCRIBE OR DISPENSE CONTROLLED SUBSTANCES.
3. "HEALTH CARE INSURER" HAS THE SAME MEANING PRESCRIBED IN SECTION 20-3151.
EXPLANATION OF BLEND
SECTION 36-2606

Laws 2021, Chapters 239 and 264

Laws 2021, Ch. 239, section 2  Effective September 29, 2021

Laws 2021, Ch. 264, section 2  Effective September 29, 2021

Explanation

Since these two enactments are compatible, the Laws 2021, Ch. 239 and Ch. 264 text changes to section 36-2606 are blended in the form shown on the following pages.
36-2606. Registration; access; requirements; mandatory use; annual user satisfaction survey; report; definitions

A. A medical practitioner regulatory board shall notify each medical practitioner who receives an initial or renewal license and who intends to apply for registration or has an active registration under the controlled substances act (21 United States Code sections 801 through 904) of the medical practitioner's responsibility to register with the Arizona state board of pharmacy and be granted access to the controlled substances prescription monitoring program's central database tracking system. The Arizona state board of pharmacy shall provide access to the central database tracking system to each medical practitioner who has a valid license pursuant to title 32 and who possesses an Arizona registration under the controlled substances act (21 United States Code sections 801 through 904). The Arizona state board of pharmacy shall notify each pharmacist of the pharmacist's responsibility to register with the Arizona state board of pharmacy and be granted access to the controlled substances prescription monitoring program's central database tracking system. The Arizona state board of pharmacy shall provide access to the central database tracking system to each pharmacist who has a valid license pursuant to title 32, chapter 16 and who is employed by EITHER:

1. A facility that has a valid United States drug enforcement administration registration number.
   2. THE ADMINISTRATION, A CONTRACTOR OR A HEALTH CARE INSURER AND WHO HAS A NATIONAL PROVIDER IDENTIFIER NUMBER.
   
B. The registration is:

1. Valid in conjunction with a valid United States drug enforcement administration registration number and a valid license issued by a medical practitioner regulatory board established pursuant to title 32, chapter 11, 13, 14, 15, 16, 17, 25 or 29.
   2. Valid in conjunction with a valid license issued by the Arizona state board of pharmacy for a pharmacist who is employed by EITHER:
      (a) A facility that has a valid United States drug enforcement administration registration number.
      (b) THE ADMINISTRATION, A CONTRACTOR OR A HEALTH CARE INSURER AND WHO HAS A NATIONAL PROVIDER IDENTIFIER NUMBER.
      3. Not transferable or assignable.

C. An applicant for registration pursuant to this section must submit an application APPLY as prescribed by the board.

D. Pursuant to a fee prescribed by the board by rule, the board may issue a replacement registration to a registrant who requests a replacement because the original was damaged or destroyed, because of a change of name or for any other good cause as prescribed by the board.

E. A person who is authorized to access the controlled substances prescription monitoring program's central database tracking system may do so using only that person's assigned identifier and may not use the assigned identifier of another person.
F. Beginning the later of October 1, 2017 or sixty days after the statewide health information exchange has integrated the controlled substances prescription monitoring program data into the exchange, a medical practitioner, before prescribing an opioid analgesic or benzodiazepine controlled substance listed in schedule II, III or IV for a patient, shall obtain a patient utilization report regarding the patient for the preceding twelve months from the controlled substances prescription monitoring program's central database tracking system at the beginning of each new course of treatment and at least quarterly while that prescription remains a part of the treatment. Each medical practitioner regulatory board shall notify the medical practitioners licensed by that board of the applicable date. A medical practitioner may be granted a one-year waiver from the requirement in this subsection due to technological limitations that are not reasonably within the control of the practitioner or other exceptional circumstances demonstrated by the practitioner, pursuant to a process established by rule by the Arizona state board of pharmacy.

G. Before a pharmacist dispenses or before a pharmacy technician or pharmacy intern of a remote dispensing site pharmacy dispenses a schedule II controlled substance, a dispenser shall obtain a patient utilization report regarding the patient for the preceding twelve months from the controlled substances prescription monitoring program's central database tracking system at the beginning of each new course of treatment. The Arizona state board of pharmacy shall establish a process to provide to a dispenser a waiver for up to one year after the effective date of this amendment to this section from the requirement in this subsection due to technological limitations that are not reasonably within the control of the dispenser or other exceptional circumstances as demonstrated by the dispenser.

H. The medical practitioner or dispenser is not required to obtain a patient utilization report from the central database tracking system pursuant to subsection F of this section if any of the following applies:

1. The patient is receiving hospice care or palliative care for a serious or chronic illness.
2. The patient is receiving care for cancer, a cancer-related illness or condition or dialysis treatment.
3. A medical practitioner will administer the controlled substance.
4. The patient is receiving the controlled substance during the course of inpatient or residential treatment in a hospital, nursing care facility, assisted living facility, correctional facility or mental health facility.
5. The medical practitioner is prescribing the controlled substance to the patient for more than a five-day period for an invasive medical or dental procedure or a medical or dental procedure that results in acute pain to the patient.
6. The medical practitioner is prescribing the controlled substance to the patient for more than a five-day period for a patient who has suffered an acute injury or a medical or dental disease process that is diagnosed in an emergency department setting and that results in acute pain to the patient. An acute injury or medical disease process does not include back pain.

1. If a medical practitioner or dispenser uses electronic medical records that integrate data from the controlled substances prescription
monitoring program, a review of the electronic medical records with the
integrated data shall be deemed compliant with the review of the program's
central database tracking system as required in subsection F of this section.

J. The board shall promote and enter into data sharing agreements
for the purpose of integrating

the controlled substances prescription monitoring program into

TO INTEGRATE

AND DISPLAY PATIENT UTILIZATION REPORTS WITHIN electronic medical records.

K. By complying with this section, a medical practitioner or dispenser
acting WHO ACTS in good faith, or the medical practitioner's or dispenser's
employer, is not subject to liability or disciplinary action arising solely
from either:

1. Requesting or receiving, or failing to request or receive, prescription monitoring data from the program's central database tracking system.

2. Acting or failing to act on the basis of the prescription monitoring data provided by the program's central database tracking system.

L. Notwithstanding any provision of this section to the contrary, medical practitioners or dispensers and their delegates are not in violation of this section during any time period in which the controlled substances prescription monitoring program's central database tracking system is suspended or is not operational or available in a timely manner. If the program's central database tracking system is not accessible, the medical practitioner or dispenser or the medical practitioner's or dispenser's delegate shall document the date and time the practitioner, dispenser or delegate attempted to use the central database tracking system pursuant to a process established by board rule.

M. The board shall conduct an annual voluntary survey of program users to assess user satisfaction with the program's central database tracking system. The survey may be conducted electronically. On or before December 1 of each year, the board shall provide a report of the survey results to the president of the senate, the speaker of the house of representatives and the governor and shall provide a copy of this report to the secretary of state.

N. This section does not prohibit a medical practitioner regulatory board or the Arizona state board of pharmacy from obtaining and using information from the program's central database tracking system.

0. For the purposes of this section:

1. "ADMINISTRATION" HAS THE SAME MEANING PRESCRIBED IN SECTION

36-2901.

2. "CONTRACTOR" HAS THE SAME MEANING PRESCRIBED IN SECTION 36-2901.

3. "Dispenser" means a pharmacist who is licensed pursuant to
title 32, chapter 18.

4. "Emergency department" means the unit within a hospital that is
designed for the provision of TO PROVIDE emergency services.

5. "HEALTH CARE INSURER" HAS THE SAME MEANING PRESCRIBED IN SECTION

20-3151.

-3-
EXPLANATION OF BLEND
SECTION 36-2608

Laws 2021, Chapters 61 and 226

Laws 2021, Ch. 61, section 21  Effective September 29, 2021
Laws 2021, Ch. 226, section 17  Effective September 29, 2021

Explanation

Since these two enactments are compatible, the Laws 2021, Ch. 61 and Ch. 226 text changes to section 36-2608 are blended in the form shown on the following pages.
36-2608. Reporting requirements; waiver; exceptions

A. If a medical practitioner dispenses a controlled substance listed in section 36-2513, 36-2514, 36-2515 or 36-2516 OR THE RULES ADOPTED PURSUANT TO CHAPTER 27, ARTICLE 2 OF THIS TITLE, or if a prescription for a controlled substance listed in any of those sections OR NALOXONE HYDROCHLORIDE OR ANY OTHER OPIOID ANTAGONIST THAT IS APPROVED BY THE UNITED STATES FOOD AND DRUG ADMINISTRATION is dispensed by a pharmacy in this state, a health care facility in this state for outpatient use or a board-permitted nonresident pharmacy for delivery to a person residing in this state, the medical practitioner, health care facility or pharmacy must report the following information as applicable and as prescribed by the board by rule:

1. The name, address, telephone number, prescription number and United States drug enforcement administration controlled substance registration number of the dispenser.
2. The name, address and date of birth of the person for whom the prescription is written.
3. The name, address, telephone number and United States drug enforcement administration controlled substance registration number of the prescribing medical practitioner.
4. The name, strength, quantity, dosage and national drug code number of the schedule II, III, IV or V controlled substance OR NALOXONE HYDROCHLORIDE OR OTHER OPIOID ANTAGONIST dispensed.
5. The date the prescription was dispensed.
6. The number of refills, if any, authorized by the medical practitioner.

B. Except as provided in subsection D of this section, a dispenser must use the September 28, 2011 version 4, release 2 LATEST VERSION OF THE standard implementation guide for prescription monitoring programs published by the American society for automation in pharmacy or any subsequent version or release of that guide to report the required information.

C. The board shall allow the reporter to transmit the required information by electronic data transfer if feasible or, if not feasible, on reporting forms as prescribed by the board. The reporter shall submit the required information once each day.

D. A dispenser who does not have an automated recordkeeping system capable of producing an electronic report in the established format may request a waiver from electronic reporting by submitting a written request to the board. The board shall grant the request if the dispenser agrees in writing to report the data by submitting a completed universal claim form as prescribed by the board by rule.

E. The board by rule may prescribe the prescription form to be used in prescribing a schedule II, III, IV or V controlled substance if the board determines that this would facilitate the reporting requirements of this section.
F. The reporting requirements of this section do not apply to the following:

1. A controlled substance THAT IS administered directly to a patient.

2. A controlled substance THAT IS dispensed by a medical practitioner at a health care facility licensed by this state if the quantity dispensed is limited to an amount adequate to treat the patient for a maximum of seventy-two hours with not more than two seventy-two-hour cycles within any fifteen-day period.

3. A controlled substance sample.

4. The wholesale distribution of a schedule II, III, IV or V controlled substance. For the purposes of this paragraph, "wholesale distribution" has the same meaning prescribed in section 32-1981.

5. A facility that is registered by the United States drug enforcement administration as a narcotic treatment program and that is subject to the recordkeeping provisions of 21 Code of Federal Regulations section 1304.24.

G. A PHARMACIST WHO DISPENSES NALOXONE HYDROCHLORIDE OR ANOTHER OPIOID ANTAGONIST TO AN INDIVIDUAL PURSUANT TO SECTION 32-1979 SHALL REPORT THE INFORMATION LISTED IN SUBSECTION A, PARAGRAPHS 1, 2, 3 AND 5 OF THIS SECTION AND THE NAME, STRENGTH, QUANTITY, DOSAGE AND NATIONAL DRUG CODE NUMBER AS PRESCRIBED BY THE BOARD BY RULE PURSUANT TO SUBSECTION A OF THIS SECTION.

H. NALOXONE HYDROCHLORIDE OR ANY OTHER OPIOID ANTAGONIST SHALL NOT BE VIEWABLE IN THE PATIENT UTILIZATION REPORT.
EXPLANATION OF BLEND
SECTION 36-2803

Laws 2021, Chapters 386, 398 and 439

Laws 2021, Ch. 386, section 1  Effective September 29, 2021
Laws 2021, Ch. 398, section 1  Effective September 29, 2021
Laws 2021, Ch. 439, section 1  Effective July 10, 2021

Explanation

Since these three enactments are compatible, the Laws 2021, Ch. 386, Ch. 398 and Ch. 439 text changes to section 36-2803 are blended in the form shown on the following pages.
36-2803. **Rulemaking; notice; testing of marijuana and marijuana products; fees**

A. The department shall adopt rules:

1. Governing the manner in which the department considers petitions from the public to add debilitating medical conditions or treatments to the list of debilitating medical conditions set forth in section 36-2801, paragraph 3, including public notice of, and an opportunity to comment in a public hearing on, petitions.

2. Establishing the form and content of registration and renewal applications submitted under this chapter.

3. Governing the manner in which the department considers applications for and renewals of registry identification cards.

4. Governing nonprofit medical marijuana dispensaries to protect against diversion and theft without imposing an undue burden on nonprofit medical marijuana dispensaries or compromising the confidentiality of cardholders, including:
   (a) The manner in which the department considers applications for and renewals of registration certificates.
   (b) Minimum oversight requirements for nonprofit medical marijuana dispensaries.
   (c) Minimum recordkeeping requirements for nonprofit medical marijuana dispensaries.
   (d) Minimum security requirements for nonprofit medical marijuana dispensaries, including requirements to protect each registered nonprofit medical marijuana dispensary location by a fully operational security alarm system.
   (e) Procedures for suspending or revoking the registration certificate of nonprofit medical marijuana dispensaries that violate this chapter or the rules adopted pursuant to this section.

5. Establishing application and renewal fees for registry identification cards, nonprofit medical marijuana dispensary registration certificates and independent third-party laboratory certificates, according to the following:
   (a) The total amount of all fees shall generate revenues that are sufficient to implement and administer this chapter, except that fee revenue may be offset or supplemented by private donations.
   (b) Nonprofit medical marijuana dispensary application fees may not exceed $5,000.
   (c) Nonprofit medical marijuana dispensary renewal fees may not exceed $1,000.
   (d) The total amount of revenue generated from nonprofit medical marijuana dispensary application and renewal fees, registry identification card fees for nonprofit medical marijuana dispensary agents and independent third-party laboratory agents and application and renewal fees for independent third-party laboratories shall be sufficient to implement and administer this chapter, including the verification
system, except that the fee revenue may be offset or supplemented by private donations.

(e) The department may establish a sliding scale of patient application and renewal fees THAT ARE based on a qualifying patient's household income AND THAT ARE REASONABLE AND RELATED TO THE ACTUAL COSTS OF PROCESSING APPLICATIONS AND RENEWALS.

(f) The department may consider private donations under section 36-2817 to reduce application and renewal fees.

B. The department of health services shall adopt rules that require each nonprofit medical marijuana dispensary to display in a conspicuous location a sign that warns pregnant women about the potential dangers to fetuses caused by smoking or ingesting marijuana while pregnant or to infants while breastfeeding and the risk of being reported to the department of child safety during pregnancy or at the birth of the child by persons who are required to report. The rules shall include the specific warning language that must be included on the sign. The cost and display of the sign required by rule shall be borne by the nonprofit medical marijuana dispensary. The rules shall also require each certifying physician to attest that the physician has provided information to each qualifying female patient that warns about the potential dangers to fetuses caused by smoking or ingesting marijuana while pregnant or to infants while breastfeeding and the risk of being reported to the department of child safety during pregnancy or at the birth of the child by persons who are required to report.

C. The department is authorized to adopt the rules set forth in subsections A and B of this section and shall adopt those rules pursuant to title 41, chapter 6.

D. The department of health services shall post prominently on its public website a warning about the potential dangers to fetuses caused by smoking or ingesting marijuana while pregnant or to infants while breastfeeding and the risk of being reported to the department of child safety during pregnancy or at the birth of the child by persons who are required to report.

E. Beginning November 1, 2020, Before selling or dispensing marijuana or marijuana products to registered qualified patients or registered designated caregivers, nonprofit medical marijuana dispensaries shall test marijuana and marijuana products for medical use to determine unsafe levels OF CONTAMINATION, INCLUDING UNSAFE LEVELS OF microbial contamination, heavy metals, pesticides, herbicides, fungicides, growth regulators and residual solvents and confirm the potency of the marijuana to be dispensed. [THE DRIED FLOWERS OF THE MARIJUANA PLANT ARE NOT REQUIRED TO BE TESTED FOR RESIDUAL SOLVENTS.] IF A NONPROFIT MEDICAL MARIJUANA DISPENSARY'S TEST RESULTS FOR HEAVY METALS COMPLY WITH THE PRESCRIBED REQUIREMENTS FOR A PERIOD OF SIX CONSECUTIVE MONTHS, HEAVY METAL TESTING FOR THAT DISPENSARY'S MARIJUANA AND MARIJUANA PRODUCTS IS REQUIRED ONLY ON A QUARTERLY BASIS.

F. Beginning November 1, 2020. Nonprofit medical marijuana dispensaries shall:

1. Provide test results to a registered qualifying patient or designated caregiver immediately on request.
2. Display in a conspicuous location a sign that notifies patients of their right to receive the certified independent third-party laboratory test results for marijuana and marijuana products for medical use.

G. The department shall adopt rules to certify and regulate independent third-party laboratories that analyze marijuana cultivated for medical use. The department shall establish certification fees for laboratories pursuant to subsection A of this section. In order to be certified as an independent third-party laboratory that is allowed to test marijuana and marijuana products for medical use pursuant to this chapter, an independent third-party laboratory:

1. Must meet requirements established by the department, including reporting and health and safety requirements.

2. May not have any direct or indirect familial or financial relationship with or interest in a nonprofit medical marijuana dispensary or related medical marijuana business entity or management company, or any direct or indirect familial or financial relationship with a designated caregiver for whom the laboratory is testing marijuana and marijuana products for medical use in this state.

3. Must have a quality assurance program and standards.

4. Must have an adequate chain of custody and sample requirement policies.

5. Must have an adequate records retention process to preserve records.

6. Must establish procedures to ensure that results are accurate, precise and scientifically valid before reporting the results.

7. Must be accredited by a national or international accreditation association or other similar accrediting entity, as determined by the department.

8. Must establish policies and procedures for disposal and reverse distribution of samples that are collected by the laboratory.

H. THROUGH DECEMBER 31, 2022, THE DEPARTMENT MAY CONDUCT PROFICIENCY TESTING AND REMEDIATE PROBLEMS WITH INDEPENDENT THIRD-PARTY LABORATORIES THAT ARE CERTIFIED AND REGULATED PERSUANT TO THIS CHAPTER AND MARIJUANA TESTING FACILITIES THAT ARE LICENSED AND REGULATED PERSUANT TO CHAPTER 28.2 OF THIS TITLE.

I. BEGINNING JANUARY 1, 2023, THE DEPARTMENT SHALL CONDUCT PROFICIENCY TESTING AND REMEDIATE PROBLEMS WITH INDEPENDENT THIRD-PARTY LABORATORIES THAT ARE CERTIFIED AND REGULATED PERSUANT TO THIS CHAPTER AND MARIJUANA TESTING FACILITIES THAT ARE LICENSED AND REGULATED PERSUANT TO CHAPTER 28.2 OF THIS TITLE. THE DEPARTMENT MAY CONTRACT FOR PROFICIENCY TESTING WITH LABORATORIES THAT HAVE A NATIONAL OR INTERNATIONAL ACCREDITATION.

J. FOR THE PURPOSES OF SUBSECTIONS H AND I OF THIS SECTION, remediation may include assessing civil penalties and suspending or revoking a laboratory's certification OR A MARIJUANA TESTING FACILITY'S LICENSE.

K. THE DEPARTMENT SHALL ADOPT RULES THAT PRESCRIBE REASONABLE TIME FRAMES FOR TESTING MARIJUANA AND MARIJUANA PRODUCTS.
EXPLANATION OF BLEND
SECTION 36-2806

Laws 2021, Chapters 387 and 398

Laws 2021, Ch. 387, section 1               Effective September 29, 2021
Laws 2021, Ch. 398, section 3               Effective September 29, 2021

Explanation

Since these two enactments are compatible, the Laws 2021, Ch. 387 and Ch. 398 text changes to section 36-2806 are blended in the form shown on the following pages.
36-2806. Registered nonprofit medical marijuana dispensaries: requirements; rules; inspections; testing

A. A registered nonprofit medical marijuana dispensary shall be operated on a not-for-profit basis. The bylaws of a registered nonprofit medical marijuana dispensary shall contain such provisions relative to the disposition of revenues and receipts to establish and maintain its nonprofit character. A registered nonprofit medical marijuana dispensary need not be recognized as tax-exempt by the internal revenue service and is not required to incorporate pursuant to title 10, chapter 19, article 1.

B. The operating documents of a registered nonprofit medical marijuana dispensary shall include procedures for the oversight of TO OVERSEE the registered nonprofit medical marijuana dispensary and procedures to ensure accurate recordkeeping.

C. A registered nonprofit medical marijuana dispensary shall have a single secure entrance and shall implement appropriate security measures to deter and prevent the theft of marijuana and unauthorized entrance into areas containing marijuana.

D. A registered nonprofit medical marijuana dispensary is prohibited from acquiring, possessing, cultivating, manufacturing, delivering, transferring, transporting, supplying or dispensing marijuana for any purpose except to assist registered qualifying patients with the medical use of marijuana directly or through the registered qualifying patients' designated caregivers or an independent third-party laboratory agent or a certified independent third-party laboratory for the purposes prescribed in this chapter and department rule.

E. All cultivation of marijuana must take place in an enclosed, locked facility, at a physical address provided to the department during the registration process, that can be accessed only by registered nonprofit medical marijuana dispensary agents associated in the registry with the nonprofit medical marijuana dispensary.

F. A registered nonprofit medical marijuana dispensary may acquire usable marijuana or marijuana plants from a registered qualifying patient or a registered designated caregiver only if the registered qualifying patient or registered designated caregiver receives no compensation for the marijuana.

G. A nonprofit medical marijuana dispensary shall not allow any person to consume marijuana on the property of the nonprofit medical marijuana dispensary.
H. Registered nonprofit medical marijuana dispensaries are subject to reasonable inspection by the department. The department shall give reasonable notice of an inspection under this subsection may visit and inspect a nonprofit medical marijuana dispensary at any time during regular hours of operation as necessary to determine whether the dispensary complies with this chapter and the rules adopted pursuant to this chapter. The department shall make at least one unannounced visit annually to each nonprofit medical marijuana dispensary that is registered pursuant to this chapter.

I. Beginning November 1, 2020, Registered nonprofit medical marijuana dispensaries are subject to product testing by certified independent third-party laboratories pursuant to this chapter and rules adopted pursuant to this chapter.

J. Notwithstanding title 13, chapter 34, an employee of the department or an independent third-party laboratory agent may not be charged with or prosecuted for possession of marijuana that is cultivated for medical use as required by this chapter and the rules adopted pursuant to this chapter.
EXPLANATION OF BLEND
SECTION 36-2817

Laws 2021, Chapters 386, 398 and 419

Laws 2021, Ch. 386, section 2  Effective September 29, 2021
Laws 2021, Ch. 398, section 5  Effective September 29, 2021
Laws 2021, Ch. 419, section 2  Effective September 29, 2021

Explanation

Since these three enactments are compatible, the Laws 2021, Ch. 386, Ch. 398 and Ch. 419 text changes to section 36-2817 are blended in the form shown on the following pages.
36-2817. Medical marijuana fund; private donations; fund transfers; use of monies

A. The medical marijuana fund is established consisting of fees collected, civil penalties imposed and private donations received under this chapter. The department shall administer the fund. Monies in the fund are continuously appropriated.

B. The director of the department may accept and spend private grants, gifts, donations, contributions and devises to assist in carrying out the provisions of this chapter.

C. Monies in the medical marijuana fund may be used to provide grants for marijuana clinical trials conducted pursuant to section 36-2822.

D. Monies in the medical marijuana fund do not revert to the state general fund at the end of a fiscal year.

E. On the effective date of this amendment to this section November 30, 2020, the director of the department shall transfer the following sums from the medical marijuana fund for the following purposes:

1. $15,000,000 to the Arizona teachers academy fund established by section 15-1655.
2. $10,000,000 to the department to fund the formation and operation of councils, commissions and programs dedicated to improving public health, including teen suicide prevention, the maternal mortality review program, improving youth health, substance abuse prevention, addressing adverse childhood experiences, the Arizona poison control system established pursuant to section 36-1161, the Arizona health improvement plan, the child fatality review team established pursuant to section 36-3501 and the chronic pain self management program.
3. $10,000,000 to the governor's office of highway safety to distribute grants for the following purposes:
   (a) Reducing impaired driving, including conducting training programs and purchasing equipment for detecting, testing and enforcing laws against driving, flying or boating while impaired.
   (b) Equipment, training and personnel costs for dedicated traffic enforcement.
4. $2,000,000 to the department to implement, carry out and enforce chapter 28.2 of this title.
5. $4,000,000 to the department to distribute grants to qualified nonprofit entities that will provide outreach to individuals who may be eligible to file petitions for expungement pursuant to section 36-2862 and will assist with the expungement petition process. The department shall distribute grants pursuant to this paragraph on or before June 30, 2021.
6. $2,000,000 to the department of health services to develop and implement, in conjunction with the department of economic security and other state agencies, a social equity ownership program to promote the ownership and operation of marijuana establishments and marijuana testing facilities by
individuals from communities disproportionately impacted by the enforcement of previous marijuana laws. For the purposes of this paragraph, "marijuana establishment" and "marijuana testing facility" have the same meanings prescribed in section 36-2850.

7. $1,000,000 to the department to fund programs and grants to qualified nonprofit organizations for education and community outreach related to chapter 28.2 of this title.

8. $1,000,000 to the smart and safe Arizona fund established by section 36-2856.

F. AFTER ALL COSTS INCURRED TO IMPLEMENT, CARRY OUT AND ENFORCE THIS CHAPTER AND THE RULES ADOPTED PURSUANT TO THIS CHAPTER ARE PAID FOR FISCAL YEAR 2021-2022, THE DEPARTMENT SHALL TRANSFER FROM THE MEDICAL MARIJUANA FUND THE FOLLOWING SUMS FOR THE FOLLOWING PURPOSES:

1. $1,250,000 TO THE DEPARTMENT FOR SUICIDE PREVENTION.

2. $1,250,000 TO THE ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM FOR SUICIDE PREVENTION.

3. $2,000,000 TO THE INSTITUTE FOR MENTAL HEALTH RESEARCH FOR RESEARCH TO IMPROVE MENTAL HEALTH SERVICES, RESEARCH AND EDUCATION IN THIS STATE.

4. $2,000,000 TO THE DEPARTMENT FOR THE PRIMARY CARE PROVIDER LOAN REPAYMENT PROGRAM AND THE RURAL PRIVATE PRIMARY CARE PROVIDER LOAN REPAYMENT PROGRAM ESTABLISHED BY CHAPTER 21 OF THIS TITLE. THE DEPARTMENT SHALL PRIORITIZE RURAL PROVIDERS IN THE AREAS OF MENTAL HEALTH CARE AND BEHAVIORAL HEALTH CARE IF FEASIBLE AND APPROPRIATE.

5. $2,000,000 TO THE BOARD OF MEDICAL STUDENT LOANS FOR THE PURPOSES OF TITLE 15, CHAPTER 13, ARTICLE 7. THE BOARD SHALL PRIORITIZE STUDENTS WHO INTEND TO PRACTICE IN THE AREA OF PSYCHIATRY OR OTHER AREAS OF PRACTICE THAT TREAT MENTAL ILLNESS IF FEASIBLE AND APPROPRIATE.

6. $5,000,000 TO COUNTY PUBLIC HEALTH DEPARTMENTS, IN PROPORTION TO THE POPULATION OF EACH COUNTY, FOR THE PURPOSES OF ADDRESSING IMPORTANT PUBLIC HEALTH ISSUES AND COMMUNITIES AFFECTED BY DRUG ADDICTION AND INCARCERATION.

7. $1,000,000 TO THE DEPARTMENT FOR THE HEALTH CARE DIRECTIVES REGISTRY ESTABLISHED PURSUANT TO SECTION 36-3291.

G. MONIES TRANSFERRED PURSUANT TO SUBSECTION F OF THIS SECTION DO NOT REVERT TO THE STATE GENERAL FUND.

H. THE DIRECTOR SHALL MAKE A ONE-TIME TRANSFER OF $250,000 FROM THE MEDICAL MARIJUANA FUND TO THE DEPARTMENT TO PROVIDE GRANTS FOR MARIJUANA RESEARCH STUDIES PURSUANT TO SECTION 36-2012.

I. THE DIRECTOR MAY USE MONIES IN THE MEDICAL MARIJUANA FUND TO CONTRACT WITH LABORATORIES PURSUANT TO SECTION 36-2803, SUBSECTION I TO COMPLY WITH THE PROFICIENCY TESTING REQUIREMENTS OF THIS CHAPTER FOR INDEPENDENT THIRD-PARTY LABORATORIES AND MARIJUANA TESTING FACILITIES. ON OR BEFORE JULY 1 OF EACH YEAR, THE DEPARTMENT SHALL REPORT TO THE JOINT LEGISLATIVE BUDGET COMMITTEE EXPENDITURES MADE PURSUANT TO THIS SUBSECTION FOR THE PRECEDING FISCAL YEAR.
EXPLANATION OF BLEND
SECTION 36-2821

Laws 2021, Chapters 285 and 439

Laws 2021, Ch. 285, section 37
Effective September 29, 2021
(Retroactive to July 1, 2021)

Laws 2021, Ch. 439, section 5
Effective July 10, 2021

Explanation

Since these two enactments are compatible, the Laws 2021, Ch. 285 and Ch. 439 text changes to section 36-2821 are blended in the form shown on the following pages.

The Laws 2021, Ch. 439 version of section 36-2821 made a technical change in subsection D. The Ch. 285 version struck subsection D. Since this would not produce a substantive change, the blend version reflects the Ch. 285 version.
36-2821. **Medical marijuana testing advisory council: membership; duties; report; definitions**

A. The director shall establish a medical marijuana testing advisory council to assist and make recommendations to the director regarding administering and implementing this chapter. The director or the director’s designee shall serve as the chairperson of the advisory council and shall appoint the following additional members to the council:

1. The president or executive director of a statewide nonprofit association representing the marijuana dispensaries, or the person’s designee.
2. The president or executive director of a statewide nonprofit cannabis testing association, or the person’s designee.
3. The president or executive director of a medical marijuana trade association that does not primarily consist of dispensaries or cannabis laboratory testing facility owners, or the person’s designee.
4. A representative of a nonprofit medical marijuana dispensary who is employed by the dispensary to cultivate medical marijuana and who has at least three years of medical marijuana cultivation experience.
5. A representative of an Arizona-based nonprofit medical marijuana dispensary that produces medical marijuana concentrates and that has been regularly sending products for testing who has at least three years of medical marijuana extraction experience.
6. A representative of an Arizona-based nonprofit medical marijuana dispensary that is primarily focused on producing medical marijuana edibles who has at least three years of medical marijuana edible production experience.
7. An owner of an Arizona-based cannabis testing laboratory.
8. A laboratory scientist who holds a doctorate or a bachelor of science degree and who has at least three years of experience in cannabis laboratory testing.
10. A registered designated caregiver.
11. A representative of the department of public safety.
12. A licensed health care provider who specializes in treating substance use disorders and who has at least five years of experience.
13. Any other members deemed necessary by the director.

B. **ONE UNIVERSITY FACULTY MEMBER FROM EACH UNIVERSITY UNDER THE JURISDICTION OF THE ARIZONA BOARD OF REGENTS WHO IS AN ACADEMIC APPOINTMENT IN THE CHEMISTRY DEPARTMENT OR ANOTHER RELATED ANALYTICAL LAB TESTING AREA TO FUNCTION AS INDEPENDENT SUBJECT MATTER EXPERTS.**

B. **A REPRESENTATIVE OF A LABORATORY THAT CONDUCTS PROFICIENCY TESTING FOR LABORATORIES IN THIS STATE.**

The medical marijuana testing advisory council shall make recommendations and consult with the director regarding:
1. Establishing a required testing program.
2. Testing and potency standards for medical marijuana.
3. Procedural requirements for collecting, storing and testing samples of medical marijuana.
4. Reporting results to patients and the department.
5. Remediation and disposal requirements for medical marijuana that fails to meet testing standards.
6. Additional items as necessary.


1. AN ASSESSMENT AS TO WHETHER AN ANALYTE SHOULD BE REMOVED FROM THE REQUIRED STATUTORY TESTING PANEL.
2. THE NUMBER OF STATEMENTS OF DEFICIENCIES RELATING TO TESTING THAT WERE ISSUED TO EACH NONPROFIT MEDICAL MARIJUANA DISPENSARY, THIRD-PARTY INDEPENDENT LABORATORY, MARIJUANA ESTABLISHMENT AND MARIJUANA TESTING FACILITY IN THE PRECEDING YEAR, THE REMEDIATION EFFORTS MADE TO ADDRESS EACH DEFICIENCY AND THE RESOLUTION OF EACH STATEMENT OF DEFICIENCY. THE INFORMATION MAY NOT DISCLOSE ANY IDENTIFYING INFORMATION BUT SHALL Delineate the information by entity.
3. ANY OTHER RECOMMENDATIONS ON IMPROVING THE TESTING PROGRAMS.

D. Members of the advisory council are not eligible to receive compensation but are eligible for reimbursement of expenses pursuant to title 38, chapter 4, article 2.

E. The council established by this section ends on July 1, 2027 pursuant to section 41-3103.

F. FOR THE PURPOSES OF THIS SECTION, "MARIJUANA ESTABLISHMENT" AND "MARIJUANA TESTING FACILITY" HAVE THE SAME MEANINGS PRESCRIBED IN SECTION 36-2850.
EXPLANATION OF BLEND
SECTION 36-2854

Laws 2021, Chapters 387, 394 and 439

Laws 2021, Ch. 387, section 2                        Effective September 29, 2021
Laws 2021, Ch. 394, section 2                        Effective September 29, 2021
Laws 2021, Ch. 439, section 6                        Effective July 10, 2021

Explanation

Since these three enactments are compatible, the Laws 2021, Ch. 387, Ch. 394 and Ch. 439 text changes to section 36-2854 are blended in the form shown on the following pages.
36-2854. Rules; licensing; early applicants; fees; civil penalty; legal counsel

A. The department shall adopt rules to implement and enforce this chapter and regulate marijuana, marijuana products, marijuana establishments and marijuana testing facilities. Those rules shall include requirements for:

1. Licensing marijuana establishments and marijuana testing facilities, including conducting investigations and background checks to determine eligibility for licensing for marijuana establishment and marijuana testing facility applicants, except that:
   (a) An application for a marijuana establishment license or marijuana testing facility license may not require the disclosure of the identity of any person who is entitled to a share of less than ten percent of the profits of an applicant that is a publicly traded corporation.
   (b) The department may not issue more than one marijuana establishment license for every ten pharmacies that have registered under section 32-1929, that have obtained a pharmacy permit from the Arizona board of pharmacy and that operate within this state.
   (c) Notwithstanding subdivision (b) of this paragraph, the department may issue a marijuana establishment license to not more than two marijuana establishments per county that contains no registered nonprofit medical marijuana dispensaries, or one marijuana establishment license per county that contains one registered nonprofit medical marijuana dispensary. Any license issued pursuant to this subdivision shall be for a fixed county and may not be relocated outside of that county.
   (d) The department shall accept applications for marijuana establishment licenses from early applicants beginning January 19, 2021 through March 9, 2021. Not later than sixty days after receiving an application pursuant to this subdivision, the department shall issue a marijuana establishment license to each qualified early applicant. If the department has not adopted final rules pursuant to this section at the time marijuana establishment licenses are issued pursuant to this subdivision, licensees shall comply with the rules adopted by the department to implement chapter 28.1 of this title except those that are inconsistent with this chapter.
   (e) After issuing marijuana establishment licenses to qualified early applicants, the department shall issue marijuana establishment licenses available under subdivisions (b) and (c) of this paragraph by random selection and according to rules adopted pursuant to this section. At least sixty days prior to before any random selection, the department shall prominently publicize the random selection on its website and through other means of general distribution intended to reach as many interested parties as possible and shall provide notice through an email notification system to which interested parties can subscribe.
   (f) Notwithstanding subdivisions (b) and (c) of this paragraph, and
implement a social equity ownership program pursuant to paragraph 9 of this subsection, the department shall issue twenty-six additional marijuana establishment licenses to entities that are qualified pursuant to the social equity ownership program.

(g) Licenses issued by the department to marijuana establishments and marijuana testing facilities shall be valid for a period of two years. A DUAL LICENSEE'S INITIAL RENEWAL DATE, WHICH WILL BE THE ONGOING RENEWAL DATE FOR BOTH THE DUAL LICENSEE'S MARIJUANA ESTABLISHMENT LICENSE AND NONPROFIT MEDICAL MARIJUANA DISPENSARY REGISTRATION, IS THE EARLIER OF:

(i) THE DATE OF THE MARIJUANA ESTABLISHMENT LICENSE RENEWAL.

(ii) THE DATE OF THE NONPROFIT MEDICAL MARIJUANA DISPENSARY REGISTRATION RENEWAL.

(h) BEGINNING SEPTEMBER 29, 2021, THE DEPARTMENT MAY NOT ISSUE A MARIJUANA ESTABLISHMENT OR MARIJUANA TESTING FACILITY LICENSE TO AN APPLICANT WHO HAS AN OWNERSHIP INTEREST IN AN OUT-OF-STATE MARIJUANA ESTABLISHMENT OR MARIJUANA TESTING FACILITY, OR THE OTHER STATE'S EQUIVALENT, THAT HAS HAD ITS LICENSE REVOKED BY THE OTHER STATE.

2. Licensing fees and renewal fees for marijuana establishments and marijuana testing facilities in amounts that are reasonable and related to the actual cost of processing applications for licenses and renewals and that do not exceed five times the fees prescribed by the department to register or renew a nonprofit medical marijuana dispensary.

3. The security of marijuana establishments and marijuana testing facilities.

4. Marijuana establishments to safely cultivate, process and manufacture marijuana and marijuana products. NOT LATER THAN DECEMBER 31, 2023, THE DEPARTMENT SHALL REQUIRE LICENSEES TO PRODUCE, DEVELOP, ACQUIRE AND MAINTAIN A SYSTEM TO TRACK MARIJUANA AND MARIJUANA PRODUCTS AT ALL POINTS OF CULTIVATION, MANUFACTURING AND SALE. THE SYSTEM DEVELOPED AND MAINTAINED PURSUANT TO THIS PARAGRAPH SHALL:

(a) ENSURE AN ACCURATE ACCOUNTING AND REPORTING OF THE PRODUCTION, PROCESSING AND SALE OF MARIJUANA AND MARIJUANA PRODUCTS.

(b) ENSURE COMPLIANCE WITH RULES ADOPTED BY THE DEPARTMENT.

(c) BE CAPABLE OF TRACKING, AT A MINIMUM:

(i) THE PROPAGATION OF IMMATURE MARIJUANA PLANTS AND THE PRODUCTION OF MARIJUANA BY A MARIJUANA ESTABLISHMENT.

(ii) THE PROCESSING OF MARIJUANA AND MARIJUANA PRODUCTS BY A MARIJUANA ESTABLISHMENT.

(iii) THE SALE AND PURCHASE OF MARIJUANA AND MARIJUANA PRODUCTS BETWEEN LICENSEES.

(iv) THE TRANSFER OF MARIJUANA AND MARIJUANA PRODUCTS BETWEEN PREMISES FOR WHICH LICENSES HAVE BEEN ISSUED.

(v) THE DISPOSAL OF MARIJUANA WASTE.

(vi) THE IDENTIFICATION OF THE PERSON MAKING THE ENTRY IN THE SYSTEM AND THE TIME, DATE AND LOCATION OF EACH ENTRY INTO THE SYSTEM, INCLUDING ANY CORRECTIONS OR CHANGES TO THAT INFORMATION.

(vii) ANY OTHER INFORMATION THAT THE DEPARTMENT DETERMINES IS REASONABLY NECESSARY TO ACCOMPLISH THE DUTIES, FUNCTIONS AND POWERS OF THE DEPARTMENT.
(d) Contain a transactional stamp to ensure accuracy, provide for chain of custody of the information and foreclose tampering of the data, human error or intentional misreporting.

5. Tracking, testing, labeling consistent with section 36-2854.01 and packaging marijuana and marijuana products, including requirements that marijuana and marijuana products be:
   (a) Sold to consumers in clearly and conspicuously labeled containers that contain accurate warnings regarding the use of marijuana or marijuana products.
   (b) Placed in child-resistant packaging on exit from a marijuana establishment.

6. Forms of government-issued identification that are acceptable by a marijuana establishment verifying a consumer's age and procedures related to verifying a consumer's age consistent with section 4-241. Until the department adopts final rules related to verifying a consumer's age, marijuana establishments shall comply with the proof of legal age requirements in section 4-241.

7. The potency of edible marijuana products that may be sold to consumers by marijuana establishments at reasonable levels consistent with industry standards, except that the rules:
   (a) Shall limit the strength of edible marijuana products to not more than ten milligrams of tetrahydrocannabinol per serving or one hundred milligrams of tetrahydrocannabinol per package.
   (b) Shall require that if a marijuana product contains more than one serving, it must be delineated or scored into standard serving sizes and homogenized to ensure uniform disbursement throughout the marijuana product.

8. Ensuring the health, safety and training of employees of marijuana establishments and marijuana testing facilities.

9. The creation and implementation of a social equity ownership program to promote the ownership and operation of marijuana establishments and marijuana testing facilities by individuals from communities disproportionately impacted by the enforcement of previous marijuana laws.

10. Prohibiting a marijuana testing facility from having any direct or indirect familial relationship with or financial ownership interest in a marijuana establishment or related marijuana business or management company.
    The rules shall include prohibiting a marijuana establishment from having any direct or indirect familial relationship with or financial ownership interest in a marijuana testing facility or related marijuana business or management company.

11. Requiring marijuana establishments to display in a conspicuous location a sign that warns pregnant women about the potential dangers to fetuses caused by smoking or ingesting marijuana while pregnant or to infants while breastfeeding and the risk of being reported to the department of child safety during pregnancy or at the birth of the child by persons who are required to report. The rules shall include the specific warning language that must be included on the sign. The cost and display of the sign required by rule shall be borne by the marijuana establishment.
B. The department may:

1. Subject to title 41, chapter 6, article 10, deny any application submitted or deny, suspend or revoke, in whole or in part, any registration or license issued under this chapter if the registered or licensed party or an officer, agent or employee of the registered or licensed party does any of the following:

   (a) Violates this chapter or any rule adopted pursuant to this chapter.

   (b) Has been, is or may continue to be in substantial violation of the requirements for licensing or registration and, as a result, the health or safety of the general public is in immediate danger.

2. Subject to title 41, chapter 6, article 10, and unless another penalty is provided elsewhere in this chapter, assess a civil penalty against a person that violates this chapter or any rule adopted pursuant to this chapter in an amount not to exceed $1,000 - $2,000 for each violation. Each day a violation occurs constitutes a separate violation. The maximum amount of any assessment is $25,000 for any thirty-day period. In determining the amount of a civil penalty assessed against a person, the department shall consider all of the factors set forth in section 36-2816, subsection H. All civil penalties collected by the department pursuant to this paragraph shall be deposited in the smart and safe Arizona fund established by section 36-2856.

3. At any time during regular hours of operation, visit and inspect a marijuana establishment, marijuana testing facility or dual licensee to determine if it complies with this chapter and rules adopted pursuant to this chapter. The department shall make at least one unannounced visit annually to each facility licensed pursuant to this chapter.

4. Adopt any other rules THAT ARE not expressly stated in this section AND that are necessary to ensure the safe and responsible cultivation, sale, processing, manufacture, testing and transport of marijuana and marijuana products.

C. Until the department adopts rules permitting and regulating delivery by marijuana establishments pursuant to subsection D of this section, delivery is unlawful under this chapter.

D. On or after January 1, 2023, the department may, and shall NOT later than January 1, 2025 the department shall, adopt rules to permit and regulate delivery by marijuana establishments. The rules shall:

1. Require that delivery and the marijuana and marijuana products to be delivered originate from a designated retail location of a marijuana establishment and only after an order is made with the marijuana establishment by a consumer.

2. Prohibit delivery to any property owned or leased by the United States, this state, a political subdivision of this state or the Arizona board of regents.

3. Limit the amount of marijuana and marijuana products based on retail price that may be in a delivery vehicle during a single trip from the designated retail location of a marijuana establishment.

4. Prohibit extra or unallocated marijuana or marijuana products in delivery vehicles.
5. Require that deliveries be made only by marijuana facility agents in unmarked vehicles that are equipped with a global positioning system or similar location tracking system and video surveillance and recording equipment, and that contain a locked compartment in which marijuana and marijuana products must be stored.

6. Require delivery logs necessary to ensure compliance with this subsection and rules adopted pursuant to this subsection.

7. Require inspections to ensure compliance with this subsection and rules adopted pursuant to this subsection.

8. Include any other provisions necessary to ensure safe and restricted delivery.

9. Require dual licensees to comply with the rules adopted pursuant to this subsection.

E. Except as provided in subsection D of this section, the department may not permit delivery of marijuana or marijuana products under this chapter by any individual or entity. In addition to any other penalty imposed by law, an individual or entity that delivers marijuana or marijuana products in a manner that is not authorized by this chapter shall pay a civil penalty of $20,000 per violation to the smart and safe Arizona fund established by section 36-2856. This subsection may be enforced by the attorney general.

F. All rules adopted by the department pursuant to this section shall be consistent with the purpose of this chapter.

G. The department may not adopt any rule that:
   1. Prohibits the operation of marijuana establishments, either expressly or through requirements that make the operation of a marijuana establishment unduly burdensome.
   2. Prohibits or interferes with the ability of a dual licensee to operate a marijuana establishment and a nonprofit medical marijuana dispensary at shared locations.

H. Notwithstanding section 41-192, the department may employ legal counsel and make an expenditure or incur an indebtedness for legal services for the purposes of:
   1. Defending this chapter or rules adopted pursuant to this chapter.
   2. Defending chapter 28.1 of this title or rules adopted pursuant to chapter 28.1 of this title.

I. The department shall deposit all license fees, application fees and renewal fees paid to the department pursuant to this chapter in the smart and safe Arizona fund established by section 36-2856.

J. On request, the department shall share with the department of revenue information regarding a marijuana establishment, marijuana testing facility or dual licensee, including its name, physical address, cultivation site and transaction privilege tax license number.

K. Notwithstanding any other law, the department may:
   1. License an independent third-party laboratory to also operate as a marijuana testing facility.
   2. Operate a marijuana testing facility.

L. The department shall maintain and publish a current list of all marijuana establishments and marijuana testing facilities by name and license number.
M. Notwithstanding any other law, the issuance of an occupational, professional or other regulatory license or certification to a person by a jurisdiction or regulatory authority outside this state does not entitle that person to be issued a marijuana establishment license, a marijuana testing facility license, or any other license, registration or certification under this chapter.

N. UNTIL THE DEPARTMENT ADOPTS RULES AS REQUIRED BY SUBSECTION A, PARAGRAPH 10 OF THIS SECTION:

1. A MARIJUANA TESTING FACILITY IS PROHIBITED FROM HAVING ANY DIRECT OR INDIRECT FAMILIAL RELATIONSHIP WITH OR FINANCIAL OWNERSHIP INTEREST IN A MARIJUANA ESTABLISHMENT OR RELATED MARIJUANA BUSINESS ENTITY OR MANAGEMENT COMPANY.

2. A MARIJUANA ESTABLISHMENT IS PROHIBITED FROM HAVING ANY DIRECT OR INDIRECT FAMILIAL RELATIONSHIP WITH OR FINANCIAL OWNERSHIP INTEREST IN A MARIJUANA TESTING FACILITY OR RELATED MARIJUANA BUSINESS ENTITY OR MANAGEMENT COMPANY.
EXPLANATION OF BLEND
SECTION 37-483

Laws 2021. Chapters 44 and 285

Laws 2021, Ch. 44, section 1  Effective September 29, 2021
Laws 2021, Ch. 285, section 38  Effective September 29, 2021
(Retroactive to July 1, 2021)

Explanation

Since these two enactments are compatible, the Laws 2021, Ch. 44 and Ch. 285 text changes to section 37-483 are blended in the form shown on the following page.
37-483. Program to remove vegetative natural products; hazardous vegetation; definition

A. On or before January 1, 2018, the commissioner and the state forester shall collaborate to establish a program to remove vegetative natural products from state [trust] land for the purposes of fire suppression PREVENTION and forest and watershed management on state lands RESTORATION and to facilitate the development of wood products industries in this state.

B. To implement the program to remove vegetative natural products FROM STATE LAND, the commissioner and state forester may:
   1. Coordinate and contract with public and private entities.
   2. Use programs that are designed to reduce parolee recidivism.

C. To implement the program to remove vegetative natural products WHERE THE VEGETATION IS HAZARDOUS, THE STATE FORESTER MAY:
   1. Enter into an intergovernmental agreement pursuant to title 11, chapter 7, article 3 with a county, city, town, natural resource conservation district or other political subdivision to share the cost of implementing the program. An intergovernmental agreement entered into pursuant to this paragraph must state the responsibilities of each party with regard to implementing the program to remove vegetative natural products from state trust lands.

D. The program established pursuant to this section ends on July 1, 2027 pursuant to section 41-3102.

E. To implement the program to remove hazardous vegetation on private property as prescribed in subsection C of this section.

F. For the purposes of this section, "public agency" has the same meaning prescribed in section 11-951.
EXPLANATION OF BLEND
SECTION 38-673

Laws 2021, Chapters 205 and 320

Laws 2021, Ch. 205, section 1  Effective September 29, 2021
Laws 2021, Ch. 320, section 21  Effective May 5, 2021

Explanation

Since these two enactments are compatible, the Laws 2021, Ch. 205 and Ch. 320 text changes to section 38-673 are blended in the form shown on the following pages.
BLEND OF SECTION 38-673
Laws 2021, Chapters 205 and 320

38-673. **Traumatic event counseling for peace officers and firefighters: report; exceptions; definitions**

A. Notwithstanding any other law, this state or a political subdivision of this state shall establish a program to provide peace officers and firefighters who are exposed to any one of the following events while in the course of duty up to twelve visits of licensed counseling, which may be provided via telemedicine THROUGH TELEHEALTH, paid for by the employer:

1. Visually witnessing the death or maiming or visually witnessing the immediate aftermath of such a death or maiming of one or more human beings.
2. Responding to or being directly involved in a criminal investigation of an offense involving a dangerous crime against children as defined in section 13-705.
3. Requiring rescue in the line of duty where one's life was endangered.
4. Using deadly force or being subjected to deadly force in the line of duty, regardless of whether the peace officer or firefighter was physically injured.
5. Witnessing the death of another peace officer or firefighter while engaged in the line of duty.
6. Responding to or being directly involved in an investigation regarding the drowning or near drowning of a child.

B. If the licensed mental health professional determines that the peace officer or firefighter needs additional visits of licensed counseling beyond that which the peace officer or firefighter is entitled to under subsection A of this section and that the additional visits are likely to improve the peace officer's or firefighter's condition, the employer shall pay for up to an additional twenty-four visits, if the visits occur within one year after the first visit pursuant to this section.

C. An employer may not require a peace officer or firefighter who is receiving treatment pursuant to this section to use the peace officer's or firefighter's accrued paid vacation LEAVE, personal leave or sick leave if the peace officer or firefighter leaves work to attend a treatment visit pursuant to this section.

D. If the licensed mental health professional determines that the peace officer or firefighter is not fit for duty while the peace officer or firefighter is receiving treatment pursuant to this section, the employer shall ensure that the peace officer or firefighter has no loss of pay and benefits for up to thirty calendar days per incident after the date the licensed mental health professional determines that the employee is not fit for duty if all of the following apply:

1. The peace officer or firefighter is unable to work light duty or the employer does not offer a light duty option.
2. The peace officer or firefighter has exhausted the peace officer's or firefighter's sick leave, vacation leave or other leave that is provided as part of the peace officer's or firefighter's benefits package.
3. If the employer offers short-term disability benefits, the employer offered and the peace officer or firefighter elected short-term disability benefits, but the peace officer or firefighter is not eligible to receive short-term disability benefits.

4. The employer does not have a supplemental program that provides pay and benefits after the occurrence of an injury. For the purposes of this paragraph, supplemental program that provides pay and benefits after the occurrence of an injury does not include a supplemental benefits plan established pursuant to section 38-961.

E. An employer shall allow a peace officer or firefighter to select the peace officer's or firefighter's own licensed mental health professional, except that if a licensed mental health professional declines to provide counseling pursuant to this section, the employer is not required to secure the services of that licensed mental health professional. The employer shall pay the licensed mental health professional pursuant to the schedule of fees that is fixed by the industrial commission of Arizona pursuant to section 23-908.

F. Payment by the employer for licensed counseling pursuant to this section does not create a presumption that a claim is compensable under section 23-1043.01, subsection B.

G. For each program established pursuant to this section, this state and each political subdivision of this state shall compile the following data for peace officers and firefighters:
1. For each category of persons, the total number of persons who have participated in the program.
2. For each category of persons, the average number of visits per person.
3. For each category of persons, the average number of months that a person participated in the program.
4. For each category of persons, the average number of days that a person who participated in the program missed work.
5. For each category of persons, the total number of persons who participated in the program and who subsequently filed a workers' compensation claim and the number of those claims that were approved and the number of those claims that were denied.
6. For each category of persons, of the total number of persons who have participated in the program, the percentage of persons who received additional visits under subsection B of this section.
7. For each category of persons, the total number of persons who were deemed not fit for duty by a licensed mental health professional pursuant to subsection D of this section.
8. For each employer, the total amount of work missed by each category of persons who participated in the program and how missed work was provided for by the employer or through employee benefits.

H. On or before September 1, 2019 and September 1 of each year thereafter, this state and each political subdivision of this state shall submit the data collected pursuant to subsection G of this section to the department of administration. On or before October 1, 2019 and October 1 of each year thereafter, the department of administration shall compile the
data into a report and submit the report to the governor, the president of the senate, the speaker of the house of representatives, the chairperson of the senate health and human services committee, or its successor committee, the chairperson of the house of representatives health committee, or its successor committee, the chairperson of the senate commerce and public safety committee, or its successor committee, and the chairperson of the house of representatives judiciary and public safety committee, or its successor committee, and shall provide a copy of this report to the secretary of state. Subsection G of this section and this subsection do not authorize this state or a political subdivision of this state to compile and report data that is protected under the health insurance portability and accountability act of 1996 (P.L. 104-191; 110 Stat. 1936).

I. This section does not apply to a state employer that provides a program to its peace officers and firefighters that is characterized by all of the following:

1. The program is paid for by the employer.
2. The program provides licensed counseling for any issue. For licensed counseling related to trauma experienced while in the line of duty, the licensed counseling is provided on the request of the peace officer or firefighter and is in person.
3. The program offers at least twelve visits per year and will offer additional visits if the licensed mental health professional determines that additional visits are necessary.
4. For the purposes of this section:
   1. "Licensed counseling" means counseling provided by a licensed mental health professional.
   2. "Licensed mental health professional" means A LICENSED INDIVIDUAL WHO SPECIALIZES IN TRAUMA AND CRISIS, WHO USES EVIDENCED-BASED TREATMENT OPTIONS AND WHO IS ONE OF THE FOLLOWING:
      (a) A psychiatrist or who is licensed pursuant to title 32, chapter 13 or 17.
      (b) A psychologist who is licensed pursuant to title 32, chapter 17 or 19.1.
      (c) A MENTAL HEALTH PROFESSIONAL WHO IS LICENSED PURSUANT TO TITLE 32, CHAPTER 33 AND WHO HOLDS EITHER A MASTER'S OR DOCTORAL DEGREE RELATED TO THE MENTAL HEALTH PROFESSION.
      (d) A MENTAL HEALTH NURSE PRACTITIONER OR A PSYCHIATRIC CLINICAL NURSE SPECIALIST WHO IS LICENSED PURSUANT TO TITLE 32, CHAPTER 15.
EXPLANATION OF BLEND
SECTION 38-842

Laws 2021, Chapters 23 and 120

Laws 2021, Ch. 23, section 3
Effective September 29, 2021

Laws 2021, Ch. 120, section 1
Effective September 29, 2021
(Retroactive to January 1, 2020)

Explanation

Since these two enactments are compatible, the Laws 2021, Ch. 23 and Ch. 120 text changes to section 38-842 are blended in the form shown on the following pages.
38-842. **Definitions**

In this article, unless the context otherwise requires:

1. "Accidental disability" means a physical or mental condition that the local board finds totally and permanently prevents an employee from performing a reasonable range of duties within the employee's job classification and that was incurred in the performance of the employee's duty.

2. "Accumulated contributions" means, for each member, the sum of the amount of the member's aggregate contributions made to the fund and the amount, if any, attributable to the employee's contributions before the member's effective date under another public retirement system, other than the federal social security act, and transferred to the fund minus the benefits paid to or on behalf of the member.

3. "Actuarial equivalent" means equality in present value of the aggregate amounts expected to be received under two different forms of payment, based on mortality and interest assumptions adopted by the board.

4. "Alternate payee" means the spouse or former spouse of a participant as designated in a domestic relations order.

5. "Alternate payee's portion" means benefits that are payable to an alternate payee pursuant to a plan approved domestic relations order.

6. "Annuitant" means a person who is receiving a benefit pursuant to section 38-846.01.

7. "Average monthly benefit compensation" means the result obtained by dividing the total compensation paid to an employee during a considered period by the number of months, including fractional months, in which such compensation was received. For an employee who becomes a member of the system:

   (a) Before January 1, 2012, the considered period shall be the three consecutive years within the last twenty completed years of credited service that yield the highest average. **IN THE COMPUTATION UNDER THIS SUBDIVISION, A PERIOD OF NONPAID OR PARTIALLY PAID INDUSTRIAL LEAVE SHALL BE CONSIDERED BASED ON THE COMPENSATION THE EMPLOYEE WOULD HAVE RECEIVED IN THE EMPLOYEE'S JOB CLASSIFICATION IF THE EMPLOYEE WAS NOT ON INDUSTRIAL LEAVE.**

   (b) On or after January 1, 2012 and before July 1, 2017, the considered period is the five consecutive years within the last twenty completed years of credited service that yield the highest average. In the computation under this paragraph SUBDIVISION, a period of nonpaid or partially paid industrial leave shall be considered based on the compensation the employee would have received in the employee's job classification if the employee was not on industrial leave.

   (c) On or after July 1, 2017, the considered period is the five consecutive years within the last fifteen completed years of credited service that yield the highest average. In the computation under this paragraph SUBDIVISION, a period of nonpaid or partially paid industrial leave...
leave shall be considered based on the compensation the employee would have received in the employee's job classification if the employee was not on industrial leave.

8. "Board" means the board of trustees of the system, who are the persons appointed to invest and operate the fund.

9. "Catastrophic disability" means a physical and not a psychological condition that the local board determines prevents the employee from totally and permanently engaging in any gainful employment and that results from a physical injury incurred in the performance of the employee's duty.

10. "Certified peace officer" means a peace officer certified by the Arizona peace officer standards and training board.

11. "Claimant" means any member or beneficiary who files an application for benefits pursuant to this article.

12. "Compensation" means, for the purpose of computing retirement benefits, base salary, overtime pay, shift differential pay, military differential wage pay, compensatory time used by an employee in lieu of overtime not otherwise paid by an employer and holiday pay paid to an employee by the employer for the employee's performance of services in an eligible group on a regular monthly, semimonthly or biweekly payroll basis and longevity pay paid to an employee at least every six months for which contributions are made to the system pursuant to section 38-843, subsection D. Compensation does not include, for the purpose of computing retirement benefits, payment for unused sick leave, payment in lieu of vacation, payment for unused compensatory time or payment for any fringe benefits. In addition, compensation does not include, for the purpose of computing retirement benefits, payments made directly or indirectly by the employer to the employee for work performed for a third party on a contracted basis or any other type of agreement under which the third party pays or reimburses the employer for the work performed by the employee for that third party, except for third-party contracts between public agencies for law enforcement, criminal, traffic and crime suppression activities training or fire, wildfire, emergency medical or emergency management activities or where the employer supervises the employee's performance of law enforcement, criminal, traffic and crime suppression activities training or fire, wildfire, emergency medical or emergency management activities. For the purposes of this paragraph, "base salary" means the amount of compensation each employee is regularly paid for personal services rendered to an employer before the addition of any extra monies, including overtime pay, shift differential pay, holiday pay, longevity pay, fringe benefit pay and similar extra payments.

13. "Credited service" means the member's total period of service before the member's effective date of participation, plus those compensated periods of the member's service thereafter for which the member made contributions to the fund.

14. "Cure period" means the ninety-day period in which a participant or alternate payee may submit an amended domestic relations order and request a determination, calculated from the time the system issues a determination finding that a previously submitted domestic relations order did not qualify as a plan approved domestic relations order.
15. "Depository" means a bank in which all monies of the system are deposited and held and from which all expenditures for benefits, expenses and investments are disbursed.

16. "Determination" means a written document that indicates to a participant and alternate payee whether a domestic relations order qualifies as a plan approved domestic relations order.

17. "Determination period" means the ninety-day period in which the system must review a domestic relations order that is submitted by a participant or alternate payee to determine whether the domestic relations order qualifies as a plan approved domestic relations order, calculated from the time the system mails a notice of receipt to the participant and alternate payee.

18. "Direct rollover" means a payment by the system to an eligible retirement plan that is specified by the distributee.

19. "Distributee" means a member, a member's surviving spouse or a member's spouse or former spouse who is the alternate payee under a plan approved domestic relations order.

20. "Domestic relations order" means an order of a court of this state that is made pursuant to the domestic relations laws of this state and that creates or recognizes the existence of an alternate payee's right to, or assigns to an alternate payee the right to, receive a portion of the benefits payable to a participant.

21. "Effective date of participation" means July 1, 1968, except with respect to employers and their covered employees whose contributions to the fund commence thereafter, the effective date of their participation in the system is as specified in the applicable joinder agreement.

22. "Effective date of vesting" means the date a member's rights to benefits vest pursuant to section 36-844.01.

23. "Eligible child" means an unmarried child of a deceased member or retired member who meets one of the following qualifications:
   (a) Is under eighteen years of age.
   (b) Is at least eighteen years of age and under twenty-three years of age only during any period that the child is a full-time student.
   (c) Is under a disability that began before the child attained twenty-three years of age and remains a dependent of the surviving spouse or guardian.

24. "Eligible groups" means only the following who are regularly assigned to hazardous duty:
   (a) Municipal police officers who are certified peace officers.
   (b) Municipal firefighters.
   (c) Paid full-time firefighters employed directly by a fire district organized pursuant to section 48-803 or 48-804 or a joint powers authority pursuant to section 48-805.01 with three or more full-time firefighters, but not including firefighters employed by a fire district pursuant to a contract with a corporation.
   (d) State highway patrol officers who are certified peace officers.
   (e) State firefighters.
   (f) County sheriffs and deputies who are certified peace officers.
   (g) Game and fish wardens who are certified peace officers.
(h) Police officers who are certified peace officers and firefighters of a nonprofit corporation operating a public airport pursuant to sections 28-8423 and 28-8424. A police officer shall be designated pursuant to section 28-8426 to aid and supplement state and local law enforcement agencies and a firefighter's sole duty shall be to perform firefighting services, including services required by federal regulations.

(i) Police officers who are certified peace officers and who are appointed by the Arizona board of regents.

(j) Police officers who are certified peace officers and who are appointed by a community college district governing board.

(k) State attorney general investigators who are certified peace officers.

(l) County attorney investigators who are certified peace officers.

(m) Police officers who are certified peace officers and who are employed by an Indian reservation police agency.

(n) Firefighters who are employed by an Indian reservation firefighting agency.

(o) Department of liquor licenses and control investigators who are certified peace officers.

(p) Arizona department of agriculture officers who are certified peace officers.

(q) Arizona state parks board rangers and managers who are certified peace officers.

(r) County park rangers who are certified peace officers.

25. "Eligible retirement plan" means any of the following that accepts a distributee's eligible rollover distribution:

(a) An individual retirement account described in section 408(a) of the internal revenue code.

(b) An individual retirement annuity described in section 408(b) of the internal revenue code.

(c) An annuity plan described in section 403(a) of the internal revenue code.

(d) A qualified trust described in section 401(a) of the internal revenue code.

(e) An annuity contract described in section 403(b) of the internal revenue code.

(f) An eligible deferred compensation plan described in section 457(b) of the internal revenue code that is maintained by a state, a political subdivision of a state or any agency or instrumentality of a state or a political subdivision of a state and that agrees to separately account for amounts transferred into the eligible deferred compensation plan from this plan.

(g) A ROTH INDIVIDUAL RETIREMENT ACCOUNT THAT SATISFIES THE REQUIREMENTS OF SECTION 408A OF THE INTERNAL REVENUE CODE.

26. "Eligible rollover distribution" means a payment to a distributee, but does not include any of the following:

(a) Any distribution that is one of a series of substantially equal periodic payments made not less frequently than annually for the life or life expectancy of the member or the joint lives or joint life expectancies
of the member and the member's beneficiary or for a specified period of ten years or more.

(b) Any distribution to the extent the distribution is required under section 401(a)(9) of the internal revenue code.

(c) The portion of any distribution that is not includable in gross income.

(d) Any distribution made to satisfy the requirements of section 415 of the internal revenue code.

(e) Hardship distributions.

(f) Similar items designated by the commissioner of the United States internal revenue service in revenue rulings, notices and other guidance published in the internal revenue bulletin.

27. "Employee" means any person who is employed by a participating employer and who is a member of an eligible group but does not include any persons compensated on a contractual or fee basis. If an eligible group requires certified peace officer status or firefighter certification and at the option of the local board, employee may include a person who is training to become a certified peace officer or firefighter.

28. "Employers" means:

(a) Cities contributing to the fire fighters' relief and pension fund as provided in sections 9-951 through 9-971 or statutes amended thereby and antecedent thereto, as of June 30, 1968 on behalf of their full-time paid firefighters.

(b) Cities contributing under the state police pension laws as provided in sections 9-911 through 9-934 or statutes amended thereby and antecedent thereto, as of June 30, 1968 on behalf of their municipal policemen.

(c) The state highway patrol covered under the state highway patrol retirement system.

(d) The state, or any political subdivision of this state, including towns, cities, fire districts, joint powers authorities, counties and nonprofit corporations operating public airports pursuant to sections 28-8423 and 28-8424, that has elected to participate in the system on behalf of an eligible group of public safety personnel pursuant to a joinder agreement entered into after July 1, 1968.

(e) Indian tribes that have elected to participate in the system on behalf of an eligible group of public safety personnel pursuant to a joinder agreement entered into after July 1, 1968.

29. "Fund" means the public safety personnel retirement fund, which is the fund established to receive and invest contributions accumulated under the system and from which benefits are paid.

30. "Local board" means the retirement board of the employer, who are the persons appointed to administer the system as it applies to their members in the system.

31. "Member":

(a) Means any full-time employee who meets all of the following qualifications:

(i) Who is either a paid municipal police officer, a paid firefighter, a law enforcement officer who is employed by this state including the director thereof, a state firefighter who is primarily
assigned to firefighting duties, a firefighter or police officer of a nonprofit corporation operating a public airport pursuant to sections 28-8423 and 28-8424, all ranks designated by the Arizona law enforcement merit system council, a state attorney general investigator who is a certified peace officer, a county attorney investigator who is a certified peace officer, a department of liquor licenses and control investigator who is a certified peace officer, an Arizona department of agriculture officer who is a certified peace officer, an Arizona state parks board ranger or manager who is a certified peace officer, a county park ranger who is a certified peace officer, a person who is a certified peace officer and who is employed by an Indian reservation police agency, a firefighter who is employed by an Indian reservation firefighting agency or an employee included in a group designated as eligible employees under a joinder agreement entered into by their employer after July 1, 1968 and who is or was regularly assigned to hazardous duty or, beginning retroactively to January 1, 2009, who is a police chief or a fire chief.

(ii) Who, on or after the employee's effective date of participation, is receiving compensation for personal services rendered to an employer or would be receiving compensation except for an authorized leave of absence.

(iii) Whose customary employment is at least forty hours per week or, for those employees who customarily work fluctuating workweeks, whose customary employment averages at least forty hours per week.

(iv) Who is engaged to work for more than six months in a calendar year.

(v) Who, if economic conditions exist, is required to take furlough days or reduce the hours of the employee's normal workweek below forty hours but not less than thirty hours per pay cycle, and maintain the employee's active member status within the system as long as the hour change does not extend beyond twelve consecutive months.

(vi) Who has not attained age sixty-five before the employee's effective date of participation or who was over age sixty-five with twenty-five years or more of service prior to the employee's effective date of participation.

(b) Does not include an employee who is hired on or after July 1, 2017, who makes the irrevocable election to participate solely in the public safety personnel defined contribution retirement plan established pursuant to article 4.1 of this chapter and who was not an active, an inactive or a retired member of the system or a member of the system with a disability on June 30, 2017.

32. "Normal retirement date" means:

(a) For an employee who becomes a member of the system before January 1, 2012, the first day of the calendar month immediately following the employee's completion of twenty years of service or the employee's sixty-second birthday and the employee's completion of fifteen years of service.

(b) For an employee who becomes a member of the system on or after January 1, 2012 and before July 1, 2017, the first day of the calendar month immediately following the employee's completion of either twenty-five years of service or fifteen years of credited service if the employee is at least fifty-two and one-half years of age.
(c) For an employee who becomes a member of the system on or after July 1, 2017, the first day of the calendar month immediately following the employee's completion of fifteen years of credited service if the employee is at least fifty-five years of age.

33. "Notice of receipt" means a written document that is issued by the system to a participant and alternate payee and that states that the system has received a domestic relations order and a request for a determination that the domestic relations order is a plan approved domestic relations order.

34. "Ordinary disability" means a physical condition that the local board determines will prevent an employee totally and permanently from performing a reasonable range of duties within the employee's department or a mental condition that the local board determines will prevent an employee totally and permanently from engaging in any substantial gainful activity.

35. "Participant" means a member who is subject to a domestic relations order.

36. "Participant's portion" means benefits that are payable to a participant pursuant to a plan approved domestic relations order.

37. "Pension" means a series of monthly amounts that are payable to a person who is entitled to receive benefits under the plan but does not include an annuity that is payable pursuant to section 38-846.01.

38. "Personal representative" means the personal representative of a deceased alternate payee.

39. "Physician" means a physician who is licensed pursuant to title 32, chapter 13 or 17.

40. "Plan approved domestic relations order" means a domestic relations order that the system approves as meeting all the requirements for a plan approved domestic relations order as otherwise prescribed in this article.

41. "Plan year" or "fiscal year" means the period beginning on July 1 of any year and ending on June 30 of the next succeeding year.

42. "Regularly assigned to hazardous duty" means regularly assigned to duties of the type normally expected of municipal police officers, municipal or state firefighters, eligible fire district firefighters, state highway patrol officers, county sheriffs and deputies, fish and game wardens, firefighters and police officers of a nonprofit corporation operating a public airport pursuant to sections 28-8423 and 28-8424, police officers who are appointed by the Arizona board of regents or a community college district governing board, state attorney general investigators who are certified peace officers, county attorney investigators who are certified peace officers, department of liquor licenses and control investigators who are certified peace officers, Arizona department of agriculture officers who are certified peace officers, Arizona state parks board rangers and managers who are certified peace officers, county park rangers who are certified peace officers, police officers who are certified peace officers and who are employed by an Indian reservation police agency or firefighters who are employed by an Indian reservation firefighting agency. Those individuals who are assigned solely to support duties such as secretaries, stenographers, clerical personnel, clerks, cooks, maintenance personnel, mechanics and dispatchers are not assigned to
hazardous duty regardless of their position classification title. Since the normal duties of those jobs described in this paragraph are constantly changing, questions as to whether a person is or was previously regularly assigned to hazardous duty shall be resolved by the local board on a case-by-case basis. Resolutions by local boards are subject to rehearing and appeal.

43. "Retirement" or "retired" means termination of employment after a member has fulfilled all requirements for a pension, for an employee who becomes a member of the system on or after January 1, 2012 and before July 1, 2017, attains the age and service requirements for a normal retirement date or for an employee who becomes a member of the system on or after July 1, 2017 attains the age and credited service requirements for a normal retirement date. Retirement shall be considered as commencing on the first day of the month immediately following a member's last day of employment or authorized leave of absence, if later.

44. "Segregated funds" means the amount of benefits that would currently be payable to an alternate payee pursuant to a domestic relations order under review by the system, or a domestic relations order submitted to the system that failed to qualify as a plan approved domestic relations order, if the domestic relations order were determined to be a plan approved domestic relations order.

45. "Service" means the last period of continuous employment of an employee by the employers before the employee's retirement, except that if such period includes employment during which the employee would not have qualified as a member had the system then been effective, such as employment as a volunteer firefighter, then only twenty-five percent of such noncovered employment shall be considered as service. Any absence that is authorized by an employer shall not be considered as interrupting continuity of employment if the employee returns within the period of authorized absence. Transfers between employers also shall not be considered as interrupting continuity of employment. Any period during which a member is receiving sick leave payments or a temporary disability pension shall be considered as service. Notwithstanding any other provision of this paragraph, any period during which a person was employed as a full-time paid firefighter for a corporation that contracted with an employer to provide firefighting services on behalf of the employer shall be considered as service if the employer has elected at its option to treat part or all of the period the firefighter worked for the company as service in its applicable joinder agreement. Any reference in this system to the number of years of service of an employee shall be deemed to include fractional portions of a year.

46. "State" means the state of Arizona, including any department, office, board, commission, agency or other instrumentality of the state.

47. "System" means the public safety personnel retirement system established by this article.

48. "Temporary disability" means a physical or mental condition that the local board finds totally and temporarily prevents an employee from performing a reasonable range of duties within the employee's department and that was incurred in the performance of the employee's duty.
EXPLANATION OF BLEND
SECTION 38-848

Laws 2021, Chapters 34, 251 and 405

Laws 2021, Ch. 34, section 4
Effective January 1, 2022

Laws 2021, Ch. 251, section 2
Effective September 29, 2021

Laws 2021, Ch. 405, section 15
Effective September 29, 2021

Explanation

Since these three enactments are compatible, the Laws 2021, Ch. 34, Ch. 251 and Ch. 405 text changes to section 38-848 are blended effective from and after December 31, 2021 in the form shown on the following pages.
38-848. Board of trustees: powers and duties: reporting requirements: independent trust fund: administrator: agents and employees: advisory committee

A. Beginning January 1, 2017. The board of trustees shall consist of nine members and shall have the rights, powers and duties that are set forth in this section. The term of office of members shall be five years to expire on the third Monday in January of the appropriate year. The board shall select a chairperson from among its members each calendar year. Members are eligible to receive compensation in an amount of $50 a day, but not to exceed $1,000 in any one fiscal year, and are eligible for reimbursement of expenses pursuant to chapter 4, article 2 of this title. Beginning January 1, 2017, the board consists of the following members appointed as follows:

1. Two members representing law enforcement, one of whom is appointed by the president of the senate and one of whom is appointed by the governor. A statewide association representing law enforcement in this state shall forward nominations to the appointing elected officials, providing at least three nominees for each position. At least one of the members appointed under this paragraph shall be an elected local board member.

2. Two members representing firefighters, one of whom is appointed by the speaker of the house of representatives and one of whom is appointed by the governor. A statewide association representing firefighters in this state shall forward nominations to the appointing elected officials, providing at least three nominees for each position. At least one of the members appointed under this paragraph shall be an elected local board member.

3. Three members representing cities and towns in this state, one of whom is appointed by the president of the senate, one of whom is appointed by the speaker of the house of representatives and one of whom is appointed by the governor. An association representing cities and towns in this state shall forward nominations to the appointing elected officials, providing at least three nominees for each position. These nominees shall represent taxpayers or employers and may not be members of the system.

4. One member who represents counties in this state and who is appointed by the governor. An association representing county supervisors in this state shall forward nominations to the governor, providing at least three nominees for the position. These nominees shall represent taxpayers or employers and may not be members of the system.

5. One member who is appointed by the governor from a list of three nominees forwarded by the board. The board shall select the nominees to forward to the governor from a list of at least five nominees received from the advisory committee.

B. Each appointment made pursuant to subsection A of this section shall be chosen from the list of nominees provided to the appointing elected official. For any appointment made by the governor pursuant to subsection A of this section, before appointment by the governor, a prospective member of the board shall submit a full set of fingerprints to the governor for the purpose of obtaining a state and federal criminal records.
check pursuant to section 41-1750 and Public Law 92-544. The department of public safety may exchange this fingerprint data with the federal bureau of investigation. A board member may be reappointed. Notwithstanding section 38-295, a board member may be removed from office only for cause by the appointing power or because the board member has vacated the member's seat on the board. A board member who is removed for cause shall be provided written notice and an opportunity for a response. The appointing power may remove a board member based on written findings that specify the reason for removal. Any vacancy that occurs other than by expiration of a term shall be filled for the balance of the term. All vacancies shall be filled in the same manner as the initial appointment. A board member vacates the office if the member either:

1. Is absent without excuse from three consecutive regular meetings of the board.
2. Resigns, dies or becomes unable to perform board member duties.
3. The members of the board who are appointed pursuant to subsection A of this section and who are not members of the system shall be independent, qualified professionals who are responsible for the performance of fiduciary duties and other responsibilities required to preserve and protect the fund and shall have at least ten years' substantial experience as any one or a combination of the following:
   1. A portfolio manager acting in a fiduciary capacity.
   2. A securities analyst.
   3. A senior executive or principal of a trust institution, investment organization or endowment fund acting either in a management or an investment-related capacity.
   4. A chartered financial analyst in good standing as determined by the chartered financial analyst institute.
   5. A current or former professor or instructor at the college or university level in the field of economics, finance, actuarial science, accounting or pension-related subjects.
   6. An economist.
   7. Any other senior executive engaged in the field of public or private finances or with experience with public pension systems.
   8. A senior executive in insurance, banking, underwriting, auditing, human resources or risk management.
4. All monies in the fund shall be deposited and held in a public safety personnel retirement system depository. Monies in the fund shall be disbursed from the depository separate and apart from all monies or funds of this state and the agencies, instrumentalities and subdivisions of this state, except that the board may commingle the assets of the fund and the assets of all other plans entrusted to its management in one or more group trusts, subject to the crediting of receipts and earnings and charging of payments to the appropriate employer, system or plan. The monies shall be secured by the depository in which they are deposited and held to the same extent and in the same manner as required by the general depository law of this state. For purposes of making the decision to invest in securities owned by the fund or any plan or trust administered by the board, the fund and assets of the plans and the plans' trusts are subject to the sole management of the board for the purpose of this article except that, on the
board's election to invest in a particular security or make a particular investment, the assets comprising the security or investment may be chosen and managed by third parties approved by the board. The board may invest in portfolios of securities chosen and managed by a third party. The board's decision to invest in securities such as mutual funds, commingled investment funds, exchange traded funds, private equity or venture capital limited partnerships, real estate limited partnerships or limited liability companies and real estate investment trusts whose assets are chosen and managed by third parties is not an improper delegation of the board's investment authority.

E. All contributions under this system and other retirement plans that the board administers shall be forwarded to the board and shall be held, invested and reinvested by the board as provided in this article. All property and monies of the fund and other retirement plans that the board administers, including income from investments and from all other sources, shall be retained for the exclusive benefit of members, as provided in the system and other retirement plans that the board administers, and shall be used to pay benefits to members or their beneficiaries or to pay expenses of operation and administration of the system and fund and other retirement plans that the board administers.

F. The board shall have the full power in its sole discretion to invest and reinvest, alter and change the monies accumulated under the system and other retirement plans and trusts that the board administers as provided in this article. In addition to its power to make investments managed by others, the board may delegate the authority the board deems necessary and prudent to investment management pursuant to section 38-848.03, as well as to the administrator, employed by the board pursuant to subsection M, paragraph 6 of this section, and any deputy or assistant administrators to invest the monies of the system and other retirement plans and trusts that the board administers if the administrator, investment management and any deputy or assistant administrators follow the investment policies that are adopted by the board. The board may commingle securities and monies of the fund, the elected officials' retirement plan, the corrections officer retirement plan and other plans or monies entrusted to its care, subject to the crediting of receipts and earnings and charging of payments to the account of the appropriate employer, system or plan. In making every investment, the board shall exercise the judgment and care under the circumstances then prevailing that persons of ordinary prudence, discretion and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income from their funds as well as the probable safety of their capital, if:

1. Not more than eighty percent of the combined assets of the system or other plans that the board manages is invested at any given time in corporate stocks, based on the cost value of the stocks irrespective of capital appreciation.

2. Not more than five percent of the combined assets of the system or other plans that the board manages is invested in corporate stock issued by any one corporation, other than corporate stock issued by corporations chartered by the United States government or corporate stock issued by a bank or insurance company.
3. Not more than five percent of the voting stock of any one corporation is owned by the system and other plans that the board administers, except that this limitation does not apply to membership interests in limited liability companies.

4. Corporate stocks and exchange traded funds eligible for direct purchase are restricted to stocks and exchange traded funds that, except for bank stocks, insurance stocks, stocks acquired for co-investment in connection with the system's or the plans' or trusts' commingled investments and interests in limited liability companies and mutual funds, are any of the following:

(a) Listed or approved on issuance for listing on an exchange registered under the securities exchange act of 1934, as amended (15 United States Code sections 78a through 78pp).

(b) Designated or approved on notice of issuance for designation on the national market system of a national securities association registered under the securities exchange act of 1934, as amended (15 United States Code sections 78a through 78pp).

(c) Listed or approved on issuance for listing on an exchange registered under the laws of this state or any other state.

(d) Listed or approved on issuance for listing on an exchange of a foreign country with which the United States is maintaining diplomatic relations at the time of purchase, except that not more than twenty percent of the combined assets of the system and other plans that the board manages is invested in foreign securities, based on the cost value of the stocks irrespective of capital appreciation.

(e) An exchange traded fund that is recommended by the chief investment officer of the system, that is registered under the investment company act of 1940 (15 United States Code sections 80a-1 through 80a-64) and that is both traded on a public exchange and based on a publicly recognized index.

G. Notwithstanding any other law, the board is not required to invest in any type of investment that is dictated or required by any entity of the federal government and that is intended to fund economic development projects, public works or social programs, but may consider such economically targeted investments pursuant to its fiduciary responsibility. The board, on behalf of the system and all other plans or trusts the board administers, may invest in, lend monies to or guarantee the repayment of monies by a limited liability company, limited partnership, joint venture, partnership, limited liability partnership or trust in which the system and plans or trusts have a financial interest, whether the entity is closely held or publicly traded and that, in turn, may be engaged in any lawful activity, including venture capital, private equity, the ownership, development, management, improvement or operation of real property and any improvements or businesses on real property or the lending of monies.

H. Conference call meetings of the board that are held for investment purposes only are not subject to chapter 3, article 3.1 of this title, except that the board shall maintain minutes of these conference call meetings and make them available for public inspection within twenty-four hours after the meeting. The board shall review the minutes of each conference call meeting.
and shall ratify all legal actions taken during each conference call meeting at the next scheduled meeting of the board.

I. The board is not liable for the exercise of more than ordinary care and prudence in the selection of investments and performance of its duties under the system and is not limited to so-called "legal investments for trustees", but all monies of the system and other plans that the board administers shall be invested subject to all of the conditions, limitations and restrictions imposed by law.

J. Except as provided in subsection F of this section, the board may:
1. Invest and reinvest the principal and income of all assets that the board manages without distinction between principal and income.
2. Sell, exchange, convey, transfer or otherwise dispose of any investments made on behalf of the system or other plans the board administers in the name of the system or plans by private contract or at public auction.
3. Also:
   (a) Vote on any stocks, bonds or other securities.
   (b) Give general or special proxies or powers of attorney with or without power of substitution.
   (c) Exercise any conversion privileges, subscription rights or other options and make any payments incidental to the exercise of the conversion privileges, subscription rights or other options.
   (d) Consent to or otherwise participate in corporate reorganizations or other changes affecting corporate securities, delegate discretionary powers and pay any assessments or charges in connection therewith.
   (e) Generally exercise any of the powers of an owner with respect to stocks, bonds, securities or other investments held in or owned by the system or other plans whose assets the board administers.
4. Make, execute, acknowledge and deliver any other instruments that may be necessary or appropriate to carry out the powers granted in this section.
5. Register any investment held by the system or other plans whose assets the board administers in the name of the system or plan or in the name of a nominee or trust.
6. At the expense of the system or other plans that the board administers, enter into an agreement with any bank or banks for the safekeeping and handling of securities and other investments coming into the possession of the board. The agreement shall be entered into under terms and conditions that secure the proper safeguarding, inventory, withdrawal and handling of the securities and other investments. Access to and deposit or withdrawal of the securities from any place of deposit selected by the board is not allowed and may not be made except as the terms of the agreement provide.
7. Appear before local boards and the courts of this state and political subdivisions of this state through counsel or an appointed representative to protect the fund or the assets of other plans that the board administers. The board is not responsible for the actions or omissions of the local boards under this system but may require a review or rehearing of actions or omissions of local boards. The board does not have a duty to review actions of the local boards but may do so in its discretion in order to protect the fund. A limitation period does not prohibit the board
or administrator from contesting or require the board or administrator to implement or comply with a local board decision that violates the internal revenue code or that threatens to impair the tax-qualified status of the system or any plan administered by the board or administrator.

8. Empower the fund administrator to take actions on behalf of the board that are necessary for the protection and administration of the fund or the assets of other plans that the board administers pursuant to the guidelines of the board.

9. Do all acts, whether or not expressly authorized, that may be deemed necessary or proper for the protection of the investments held in the fund or owned by other plans or trusts that the board administers.

10. Settle threatened or actual litigation against any system or plan that the board administers.

K. Investment expenses and operation and administrative expenses of the board shall be accounted for separately and allocated against investment income.

L. The board, as soon as possible within a period of six months following the close of any fiscal year, shall transmit to the governor and the legislature a comprehensive annual financial report on the operation of the system and other plans that the board administers that contains, among other things:

1. A balance sheet.
2. A statement of income and expenditures for the year.
3. A report on an actuarial valuation of its assets and liabilities.
4. A list of investments owned.
5. The total rate of return, yield on cost, and percent PERCENTAGE of cost to market value of the fund and the assets of other plans that the board administers.
6. Any other statistical and financial data that may be necessary for the proper understanding of the financial condition of the system and other plans that the board administers and the results of their operations. A synopsis of the annual report shall be published for the information of members of the system, the elected officials' retirement plan or the corrections officer retirement plan.
7. An analysis of the long-term level percent of employer contributions and compensation structure and whether the funding methodology is sufficient to pay one hundred percent of the unfunded accrued liability under the elected officials' retirement plan.
8. An estimate of the aggregate employer contribution rate for the public safety personnel retirement system for the next ten fiscal years and an estimate of the aggregate employer contribution rate for the corrections officer retirement plan for the next ten fiscal years.
9. An estimate of the employer contribution rates for the next ten fiscal years for each of the following employers within the public safety personnel retirement system:
   (a) Department of liquor licenses and control.
   (b) Department of public safety.
   (c) Northern Arizona university.
   (d) University of Arizona.
   (e) Arizona state university.
(f) Arizona game and fish department.
(g) Department of law.
(h) Department of emergency and military affairs.
(i) Arizona state parks board.
10. An estimate of the employer contribution rates for the next ten fiscal years for each of the following employers within the corrections officer retirement plan:
   (a) State department of corrections.
   (b) Department of public safety.
   (c) The judiciary.
   (d) Department of juvenile corrections.
   (e) An estimate of the aggregate fees paid for private equity investments AND OTHER ALTERNATIVE INVESTMENTS, including management fees and performance fees AND CARRIED INTEREST.
M. The board shall:
   1. Maintain the accounts of the system and other plans that the board administers and issue statements to each employer annually and to each member who requests a statement.
   2. Report the results of the actuarial valuations to the local boards and employers.
   3. Contract on a fee basis with an independent investment counsel to advise the board in the investment management of the fund and assets of other plans that the board administers and with an independent auditing firm to audit the board's accounting.
   4. Permit ALLOW the auditor general to make an annual audit and transmit the results to the governor and the legislature.
   5. Contract on a fee basis with an actuary who shall make actuarial valuations of the system and other plans that the board administers, be the technical adviser of the board on matters regarding the operation of the funds created by the provisions of the system, the elected officials' retirement plan, the corrections officer retirement plan and the public safety cancer insurance policy program and perform other duties required in connection therewith. The actuary must be a member of a nationally recognized association or society of actuaries.
   6. Employ, as administrator, a person, state department or other body to serve at the pleasure of the board.
   7. Establish procedures and guidelines for contracts with actuaries, auditors, investment counsel and legal counsel and for safeguarding of securities.
   8. ISSUE A REQUEST FOR PROPOSALS EVERY FIVE YEARS FOR AN EXTERNAL AUDITOR. THE BOARD IS NOT REQUIRED TO CHANGE ITS AUDITOR AFTER ISSUING THE REQUEST FOR PROPOSALS.
   9. DEVELOP A POLICY REGARDING ROUTINE STRESS TESTING OF THE RETIREMENT SYSTEMS AND PLANS ADMINISTERED BY THE BOARD AT THE EMPLOYER LEVEL AND SYSTEM LEVEL. THE STRESS TEST SHALL USE INDUSTRY STANDARDS, SUCH AS THE INCLUSION OF ASSUMPTIONS REGARDING INVESTMENT RETURNS, INFLATION, POPULATION GROWTH, PAYROLL GROWTH AND EMPLOYER CONTRIBUTIONS. FOR THE PURPOSES OF THIS PARAGRAPH, "STRESS TEST" MEANS AN ASSESSMENT OF THE RISK EXPOSURE OF THE RETIREMENT SYSTEM OR PLAN, INCLUDING SCENARIO ANALYSIS, SIMULATION ANALYSIS AND SENSITIVITY ANALYSIS.
N. The administrator, under the direction of the board, shall:
1. Administer this article.
2. Be responsible for the recruitment, hiring and day-to-day management of employees.
3. Invest the monies of the system and other plans that the board administers as the board deems necessary and prudent as provided in subsections F and J of this section and subject to the investment policies and fund objectives adopted by the board.
4. Establish and maintain an adequate system of accounts and records for the system and other plans that the board administers, which shall be integrated with the accounts, records and procedures of the employers so that the system and other plans that the board administers operate most effectively and at minimum expense and that duplication of records and accounts is avoided.
5. In accordance with the board's governance policy and procedures and the budget adopted by the board, hire employees and services the administrator deems necessary and prescribe their duties, including the hiring of one or more deputy or assistant administrators to manage the system's operations, investments and legal affairs.
6. Be responsible for income, the collection of the income and the accuracy of all expenditures.
7. Recommend to the board annual contracts for the system's actuary, auditor, investment counsel, legal counsel and safeguarding of securities.
8. Perform additional duties and powers prescribed by the board and delegated to the administrator.

O. The system is an independent trust fund and the board is not subject to title 41, chapter 6. Contracts for goods and services approved by the board are not subject to title 41, chapter 23. As an independent trust fund whose assets are separate and apart from all other funds of this state, the system and the board are not subject to the restrictions prescribed in section 35-154 or article IX, sections 5 and 8, Constitution of Arizona. Loans, guarantees, investment management agreements and investment contracts that are entered into by the board are contracts memorializing obligations or interests in securities that the board has concluded, after thorough due diligence, do not involve investments in Sudan or Iran or otherwise provide support to terrorists or in any way facilitate illegal immigration into the United States. These contracts do not involve the procurement, supply or provision of goods, equipment, labor, materials or services that would require the warranties required by section 41-4401.

P. The board, the administrator, the deputy or assistant administrators and all persons employed by them are subject to title 41, chapter 4, article 4. The administrator, deputy or assistant administrators and other employees of the board are entitled to receive compensation pursuant to section 38-611.

Q. In consultation with the director of the department of administration, the board may enter into employment agreements and establish the terms of those agreements with persons holding any of the following system positions:
1. Administrator.
2. Deputy or assistant administrator.
3. Chief investment officer.
4. Deputy chief investment officer.
5. Fiduciary or investment counsel.

R. The attorney general or an attorney approved by the attorney general and paid by the fund is the attorney for the board and shall represent the board in any legal proceeding or forum that the board deems appropriate. The board, administrator, deputy or assistant administrators and employees of the board are not personally liable for any acts done in their official capacity in good faith reliance on the written opinions of the board's attorney.

S. At least once in each five-year period after the effective date, the actuary shall make an actuarial investigation into the mortality, service and compensation experience of the members and beneficiaries of the system and other plans that the board administers and shall make a special valuation of the assets and liabilities of the monies of the system and plans. Taking into account the results of the investigation and special valuation, the board shall adopt for the system and other plans that the board administers those mortality, service and other tables deemed necessary.

T. On the basis of the tables the board adopts, the actuary shall make a valuation of the assets and liabilities of the funds of the system and other plans that the board administers at least every year. By November 1 of each year the board shall provide a preliminary report and by December 31 of each year provide a final report to the governor, the speaker of the house of representatives and the president of the senate on the contribution rate for the ensuing fiscal year.

U. Neither the board nor any member or employee of the board shall directly or indirectly, for himself THE BOARD, THE MEMBER OR THE EMPLOYEE or as an agent, in any manner use the monies or deposits of the fund except to make current and necessary payments, nor shall the board or any member or employee become an endorser or surety or in any manner an obligor for monies loaned by or borrowed from the fund or the assets of any other plans that the board administers.

V. Financial or commercial information that is provided to the board, employees of the board and attorneys of the board in connection with investments in which the board has invested or investments the board has considered for investment is confidential, proprietary and not a public record if the information is information that would customarily not be released to the public by the person or entity from whom the information was obtained.

W. A person who is a dealer as defined in section 44-1801 and who is involved in securities or investments related to the board's investments is not eligible to serve on the board.

X. The public safety personnel retirement system advisory committee is established and shall serve as a liaison between the board and the members and employers of the system. THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES SHALL EACH APPOINT TO THE COMMITTEE ONE MEMBER WHO IS EITHER A LEGISLATOR OR A LEGISLATIVE STAFF MEMBER. The remaining members of the committee shall be appointed by the chairperson of the board from names submitted to the chairperson by associations representing law enforcement, firefighters, state government, counties, cities and towns and
tribal governments. The committee shall select a chairperson from among its members each calendar year. The committee MEMBERS APPOINTED BY THE CHAIRPERSON OF THE BOARD shall consist of the following ten members:

1. A member who is a law enforcement officer.
2. A member who is a firefighter.
3. A member of the elected officials' retirement plan.
4. A member of the corrections officer retirement plan.
5. A retiree from the public safety personnel retirement system.
6. A representative from a city or town in this state.
7. A representative from a county in this state.
8. A representative from a fire district in this state.
9. A representative from a state employer.
10. A representative from a tribal government located in this state.
EXPLANATION OF BLEND
SECTION 41-179

Laws 2021, Chapters 188 and 285

Laws 2021, Ch. 188, section 11
Effective September 29, 2021

Laws 2021, Ch. 285, section 41
Effective September 29, 2021
(Retroactive to July 1, 2021)

Explanation

Since these two enactments are compatible, the Laws 2021, Ch. 188 and Ch. 285 text changes to section 41-179 are blended in the form shown on the following page.
41-179. **AZ529, Arizona's education savings plan advisory committee; membership; duties**

A. The state treasurer shall appoint a family college THE AZ529, ARIZONA'S EDUCATION savings program PLAN advisory committee to assist the treasurer in promoting and raising awareness of the family college AZ529, ARIZONA'S EDUCATION savings program PLAN established by title 15, chapter 14, article 7 to residents of this state, with emphasis on increasing access to the program PLAN among economically disadvantaged, minority and underrepresented student populations. The advisory committee shall include all of the following:

1. The state treasurer or the state treasurer's designee, who serves as chairperson of the committee.
2. Two members who represent community college districts in this state, one of whom represents a community college district in a county with a population of five hundred thousand persons or more and one of whom represents a community college district in a county with a population of less than five hundred thousand persons.
3. One member who represents a university under the jurisdiction of the Arizona board of regents.
4. One member who represents an accredited private educational institution in this state offering associate, baccalaureate or higher degrees.
5. One member who represents an accredited private educational institution offering private vocational training in this state.
6. One member who is a teacher and who currently provides classroom instruction in this state.
7. One member who represents a federally recognized Indian tribe in this state.
8. One member who represents a United States department of labor-approved apprenticeship program.
9. Two public members who are residents of this state.

B. The committee shall do both of the following:

1. Assist and make recommendations to the state treasurer regarding promotional and informational activities relating to the family college AZ529, ARIZONA'S EDUCATION savings program PLAN.
2. Meet at least once each calendar quarter. A majority of the membership constitutes a quorum for the transaction of business.
3. Committee members are not eligible to receive compensation or reimbursement of expenses.
4. The state treasurer's office shall provide necessary staff services to the committee.

C. The committee established by this section ends on July 1, 2028 pursuant to section 41-3103.
EXPLANATION OF BLEND
SECTION 41-619.51

Laws 2021, Chapters 210, 226, 282, 301 and 323

Laws 2021, Ch. 210, section 12  Effective September 29, 2021
Laws 2021, Ch. 226, section 18  Effective September 29, 2021
Laws 2021, Ch. 282, section 2   Effective September 29, 2021
Laws 2021, Ch. 301, section 13  Effective January 1, 2022
Laws 2021, Ch. 323, section 2   Effective January 1, 2022

Explanation

Since these five enactments are compatible, the Laws 2021, Ch. 210, Ch. 226, Ch. 282, Ch. 301 and Ch. 323 text changes to section 41-619.51 are blended effective from and after December 31, 2021 in the form shown on the following pages.
BLEND OF SECTION 41-619.51
Laws 2021, Chapters 210, 226, 282, 301 and 323

41-619.51. Definitions
In this article, unless the context otherwise requires:
1. "Agency" means the supreme court, the department of economic
security, the department of child safety, the department of education,
the department of health services, the department of juvenile
corrections, the department of emergency and military affairs, the
department of public safety, the department of transportation, the state
real estate department, the department of insurance and financial
institutions, the Arizona game and fish department, the Arizona
department of agriculture, the board of examiners of nursing care
institution administrators and assisted living facility managers, the
state board of dental examiners, the Arizona state board of pharmacy,
or the board of physical therapy

, THE STATE BOARD OF PSYCHOLOGIST EXAMINERS

, THE BOARD OF ATHLETIC TRAINING[, THE BOARD OF OCCUPATIONAL
THERAPY EXAMINERS], THE STATE BOARD OF PODIATRY EXAMINERS or the state
board of technical registration.

2. "Board" means the board of fingerprinting.
3. "Central registry exception" means notification to the
department of economic security, the department of child safety or the
department of health services, as appropriate, pursuant to section
41-619.57 that the person is not disqualified because of a central
registry check conducted pursuant to section 8-804.

4. "Expedited review" means an examination, in accordance with
board rule, of the documents an applicant submits by the board or its
hearing officer without the applicant being present.

5. "Good cause exception" means the issuance of a fingerprint
clearance card to an employee pursuant to section 41-619.55.

6. "Person" means a person who is required to be fingerprinted
pursuant to this article or who is subject to a central registry check
and any of the following:
(a) Section 3-314.
(b) Section 8-105.
(c) Section 8-322.
(d) Section 8-463.
(e) Section 8-509.
(f) Section 8-802.
(g) Section 8-804.
(h) Section 15-183.
(i) Section 15-503.
(j) Section 15-512.
(k) Section 15-534.
(l) Section 15-763.01.
(m) Section 15-782.02.
(n) Section 15-1330.
(o) Section 15-1881.
(p) Section 17-215.
(q) Section 28-3228.
(r) Section 28-3413.
(s) Section 32-122.02.
(t) Section 32-122.05.
(u) Section 32-122.06.

Ch. 301  ———(v) SECTION 32-823.

Ch. 226  ———(cc) SECTION 32-1982.

Ch. 210  ———(ee) SECTION 32-2063.

Chs. 301

and 323 ———(ff) Section 32-2108.01.

Chs. 301

and 323 ———(gg) Section 32-2123.

Chs. 301

and 323 ———(hh) Section 32-2371.

Ch. 301  ———(ii) SECTION 32-3430.

Ch. 301  ———(jj) Section 32-3620.

Ch. 301  ———(kk) Section 32-3668.

Ch. 301  ———(ll) Section 32-3669.

Ch. 282  ———(uu) SECTION 36-766.01.

Ch. 282  ———(vv) Section 36-882.

Ch. 282  ———(ww) Section 36-883.02.

Ch. 282  ———(xx) Section 36-897.01.

Ch. 282  ———(yy) Section 36-897.03.

Ch. 282  ———(zz) Section 36-3008.

Ch. 282  ———(aaa) Section 41-619.53.

Ch. 282  ———(bbbb) Section 41-1964.

Ch. 282  ———(cccc) Section 41-1967.01.

Ch. 282  ———(dddd) Section 41-1968.

Ch. 282  ———(eee) Section 41-1969.

Ch. 282  ———(ffff) Section 41-2814.

Ch. 282  ———(gggg) Section 46-141, subsection A or B.

Ch. 282  ———(hhhh) Section 46-321.
EXPLANATION OF BLEND
SECTION 41-1092

Laws 2021, Chapters 161 and 334

Laws 2021, Ch. 161, section 7  Effective September 29, 2021
Laws 2021, Ch. 334, section 25  Effective January 1, 2022

Explanation

Since these two enactments are compatible, the Laws 2021, Ch. 161 and Ch. 334 text changes to section 41-1092 are blended in the form shown on the following pages.
41-1092. **Definitions**

In this article, unless the context otherwise requires:

1. "Administrative law judge" means an individual or an agency head, board or commission that sits as an administrative law judge, that conducts administrative hearings in a contested case or an appealable agency action and that makes decisions regarding the contested case or appealable agency action.

2. "Administrative law judge decision" means the findings of fact, conclusions of law and recommendations or decisions issued by an administrative law judge.

3. "Appealable agency action" means an action that determines the legal rights, duties or privileges of a party, INCLUDING THE ADMINISTRATIVE COMPLETENESS OF AN APPLICATION OTHER THAN AN APPLICATION SUBMITTED TO THE DEPARTMENT OF WATER RESOURCES PURSUANT TO TITLE 45, and that is not a contested case. Appealable agency actions do not include interim orders by self-supporting regulatory boards, rules, orders, standards or statements of policy of general application issued by an administrative agency to implement, interpret or make specific the legislation enforced or administered by it or clarifications of interpretation, nor does it mean or include rules concerning the internal management of the agency that do not affect private rights or interests. For the purposes of this paragraph, administrative hearing does not include a public hearing held for the purpose of receiving public comment on a proposed agency action.

4. "Director" means the director of the office of administrative hearings.

5. "Final administrative decision" means a decision by an agency that is subject to judicial review pursuant to title 12, chapter 7, article 6.

6. "Office" means the office of administrative hearings.

7. "Self-supporting regulatory board" means any one of the following:
   (a) The Arizona state board of accountancy.
   (b) The BARBERING AND COSMETOLOGY board of barbers.
   (c) The board of behavioral health examiners.
   (d) The Arizona state boxing and mixed martial arts commission.
   (e) The state board of chiropractic examiners.
   (f) The board of cosmetology.
   (g) The state board of dental examiners.
   (h) The Arizona game and fish commission.
   (i) The board of homeopathic and integrated medicine examiners.
   (j) The Arizona medical board.
   (k) The naturopathic physicians medical board.
   (l) The ARIZONA state board of nursing.
   (m) The board of examiners of nursing care institution administrators and adult care home ASSISTED LIVING FACILITY managers.
(n) The board of occupational therapy examiners.
(o) The state board of dispensing opticians.
(p) The state board of optometry.
(q) The Arizona board of osteopathic examiners in medicine and surgery.
(r) The Arizona peace officer standards and training board.
(s) The Arizona state board of pharmacy.
(t) The board of physical therapy.
(u) The state board of podiatry examiners.
(v) The state board for private postsecondary education.
(w) The state board of psychologist examiners.
(x) The board of respiratory care examiners.
(y) The state board of technical registration.
(z) The Arizona state veterinary medical examining board.
(aa) The acupuncture board of examiners.
(bb) The Arizona regulatory board of physician assistants.
(cc) The board of athletic training.
(dd) The board of massage therapy.
EXPLANATION OF BLEND
SECTION 41-1092.02

Laws 2021, Chapters 2 and 404

Laws 2021, Ch. 2, section 11  Effective September 29, 2021
Laws 2021, Ch. 404, section 54  Effective September 29, 2021

Explanation

Since these two enactments are compatible, the Laws 2021, Ch. 2 and Ch. 404 text changes to section 41-1092.02 are blended in the form shown on the following pages.
41-1092.02. Appealable agency actions; application of procedural rules; exemption from article

A. This article applies to all contested cases as defined in section 41-1001 and all appealable agency actions, except contested cases with or appealable agency actions of:
   1. The state department of corrections.
   2. The board of executive clemency.
   3. The industrial commission of Arizona.
   4. The Arizona corporation commission.
   5. The Arizona board of regents and institutions under its jurisdiction.
   6. The state personnel board.
   7. The department of juvenile corrections.
   8. The department of transportation, except as provided in title 28, chapter 30, article 2.
   9. The department of economic security except as provided in section 46-458.
   10. The department of revenue regarding:
       (a) Income tax or withholding tax.
       (b) Any tax issue related to information associated with the reporting of income tax or withholding tax unless the taxpayer requests in writing that this article apply and waives confidentiality under title 42, chapter 2, article 1.
   11. The board of tax appeals.
   12. The state board of equalization.
   13. The state board of education, but only in connection with contested cases and appealable agency actions related to EITHER:
       (a) Applications for issuance or renewal of a certificate and discipline of certificate holders AND NONCERTIFICATED PERSONS pursuant to sections 15-203, 15-505, 15-534, 15-534.01, 15-535, 15-545 and 15-550.
       (b) THE ARIZONA EMPOWERMENT SCHOLARSHIP ACCOUNT PROGRAM PURSUANT TO TITLE 15, CHAPTER 19.
   14. The board of fingerprinting.
   15. The department of child safety except as provided in sections 8-506.01 and 8-811.

B. Unless waived by all parties, an administrative law judge shall conduct all hearings under this article, and the procedural rules set forth in this article and rules made by the director apply.

C. Except as provided in subsection A of this section:
   1. A contested case heard by the office of administrative hearings regarding taxes administered under title 42 shall be subject to section 42-1251.
   2. A final decision of the office of administrative hearings regarding taxes administered under title 42 may be appealed by either party
to the director of the department of revenue, or a taxpayer may file and appeal directly to the board of tax appeals pursuant to section 42-1253.

D. Except as provided in subsections A, B, E, F and G of this section and notwithstanding any other administrative proceeding or judicial review process established in statute or administrative rule, this article applies to all appealable agency actions and to all contested cases.

E. Except for a contested case or an appealable agency action regarding unclaimed property, sections 41-1092.03, 41-1092.08 and 41-1092.09 do not apply to the department of revenue.

F. The board of appeals established by section 37-213 is exempt from:
   1. The time frames for hearings and decisions provided in section 41-1092.05, subsection A, section 41-1092.08 and section 41-1092.09.
   2. The requirement in section 41-1092.06, subsection A to hold an informal settlement conference at the appellant's request if the sole subject of an appeal pursuant to section 37-215 is the estimate of value reported in an appraisal of lands or improvements.

G. Auction protest procedures pursuant to title 37, chapter 2, article 4.1 are exempt from this article.
EXPLANATION OF BLEND
SECTION 41-1520

Laws 2021, Chapters 196 and 266

Laws 2021, Ch. 196, section 2  Effective September 29, 2021

Laws 2021, Ch. 266, section 2  Effective September 29, 2021
   (Retroactive to August 25, 2020)

Explanation

Since these two enactments are compatible, the Laws 2021, Ch. 196 and Ch. 266 text changes to section 41-1520 are blended in the form shown on the following pages.

The Laws 2021, Ch. 196 version of section 41-1520, subsection L included a comma after "4". The Ch. 266 version did not include a comma. Since this would not produce a substantive change, the blend version reflects the Ch. 196 version.

The Laws 2021, Ch. 266 version of section 41-1520, subsection M, paragraph 3 struck the reference to section 43-1164.05, subsection B. The Ch. 196 version added "or" after the second reference to subsection D of that paragraph. Since this would not produce a substantive change, the blend version reflects the Ch. 266 version.
41-1520. International operations centers; utility relief; certification; revocation; definitions

A. Utility relief is allowed for the owner or operator of an international operations center that is certified pursuant to this section.

B. To qualify for the utility relief, the owner or operator must submit to the authority an application in a form prescribed by the authority that includes all of the following:

1. The owner's or operator's name, address and telephone number.
2. The address of the site where the facility is or will be located, including, if applicable, information sufficient to identify the specific portion or portions of the facility comprising the international operations center.
3. An estimate of the total investment the owner or operator or an affiliated entity, including investments made by a third-party entity on behalf of and for the benefit of the owner, operator or affiliated entity, will make, over a three-year period beginning on the date the application is received, in new renewable energy facilities in this state that produce energy for self-consumption by the international operations center using renewable energy resources.
4. The expected location of each of the renewable energy facilities that comprise the total investment estimated in paragraph 3 of this subsection and the earliest date that each facility is expected to be operational.
5. A statement that a portion of the power generated by each renewable energy facility, as required by subsection D, paragraph 4 of this section, is for self-consumption and will be used for international operations center use.

C. Within sixty days after receiving a complete and correct application, the authority shall review the application and either issue a written certification that the international operations center qualifies for the utility relief or provide written reasons for its denial. A failure to approve or deny the application within sixty days after the date of submittal constitutes certification of the international operations center, and the authority shall issue written certification to the owner or operator within fourteen days. The authority shall send a copy of the certification to the department of revenue.

D. The owner or operator of the international operations center must achieve all of the following investment requirements after taking into account the combined investments made by the owner or operator:

1. A minimum annual investment of $100,000,000 in new capital assets, including costs of land, buildings and international operations center equipment in each of ten consecutive taxable years of the owner or operator.
Investments greater than $100,000,000 in any taxable year may be carried forward as a credit toward the investment requirement in future years.

2. On or before the tenth anniversary of certification, a minimum investment of at least $1,250,000,000 in new capital assets, including costs of land, buildings and international operations center equipment.

3. AN INVESTMENT
   BY THE OWNER OR OPERATOR OR AN AFFILIATED ENTITY, OR A THIRD-PARTY ENTITY
   ON BEHALF OF OR FOR THE DIRECT BENEFIT OF THE OWNER, OPERATOR OR AFFILIATED
   ENTITY,
   OF AT LEAST $100,000,000 IN ONE OR MORE NEW RENEWABLE ENERGY FACILITIES IN
   THIS STATE THAT PRODUCE ENERGY FOR SELF-CONSUMPTION USING RENEWABLE ENERGY
   RESOURCES. THE MINIMUM INVESTMENT MUST BE COMPLETED WITHIN A THREE-YEAR
   PERIOD BEGINNING ON THE DATE THE INITIAL APPLICATION IS RECEIVED OR BY
   DECEMBER 31, 2030, WHICHEVER IS EARLIER. CONSTRUCTION OF THE RENEWABLE
   ENERGY FACILITIES SHALL BEGIN NOT LATER THAN SIX MONTHS AFTER THE RECEIPT
   OF THE APPLICATION.

4. THE USE OF A PORTION OF THE ENERGY PRODUCED AT EACH RENEWABLE
   ENERGY FACILITY FOR SELF-CONSUMPTION IN THIS STATE. BY THE FIFTH YEAR A
   RENEWABLE ENERGY FACILITY IS IN OPERATION, AT LEAST FIFTY-ONE PERCENT OF
   THE ENERGY PRODUCED MUST BE USED FOR SELF-CONSUMPTION IN THIS STATE.
   SELF-CONSUMPTION INCLUDES THE POWER USED BY RELATED ENTITIES IF THE RELATED
   ENTITIES ARE DIRECTLY OR INDIRECTLY UNDER THE SAME OWNERSHIP INTERESTS THAT
   COLLECTIVELY OWN MORE THAN EIGHTY PERCENT. POWER THAT A RENEWABLE ENERGY
   FACILITY TRANSFERS TO A UTILITY QUALIFIES AS SELF-CONSUMPTION IF THE UTILITY
   IS THE SAME UTILITY THAT PROVIDES POWER TO THE OWNER’S OR OPERATOR’S
   INTERNATIONAL OPERATIONS CENTER IN THIS STATE
   , REGARDLESS OF WHETHER THE OWNER OR OPERATOR OR AN AFFILIATED ENTITY OWNS
   OR LEASES THE RENEWABLE ENERGY FACILITY OR THE LAND ON WHICH IT IS LOCATED
   AT THE TIME OF TRANSFER[.]

5. THE USE OF POWER FOR SELF-CONSUMPTION UNDER PARAGRAPH 4 OF THIS
   SUBSECTION IS FOR AN INTERNATIONAL OPERATIONS CENTER IN THIS STATE. A
   LESSOR OF AN INTERNATIONAL OPERATIONS CENTER FACILITY THAT USES POWER FOR
   SELF-CONSUMPTION UNDER PARAGRAPH 4 OF THIS SUBSECTION SATISFIES THE
   REQUIREMENTS OF THIS PARAGRAPH IF THE LESSEE IS AN INTERNATIONAL OPERATIONS
   CENTER AND THE POWER IS TRANSFERRED AS PART OF THE LEASE TO THE LESSEE.

E. Within thirty days after the end of each taxable year following
   certification, and within thirty days after the tenth anniversary of
   certification, the owner or operator shall furnish the authority written
   information demonstrating whether the certified international operations
   center has or has not satisfied the investment requirements prescribed in
   subsection D of this section. Until the investment requirements prescribed
   in subsection D of this section are met, the owner or operator shall keep
detailed records of all capital investment in the international operations
   center, including costs of land, buildings and international operations
   center equipment, and all utility relief directly received by the owner or
   operator.

F. If the authority determines that the requirements of this section
   have not been satisfied, the authority may revoke the certification of the
   international operations center and notify the department of revenue in
   writing. The owner or operator may appeal the revocation. The authority
may give special consideration or allow a temporary exception if there is extraordinary hardship due to factors beyond the owner's or operator's control. If certification is revoked, the department of revenue shall order the owner or operator to forfeit further entitlement to utility relief. If the owner or operator fails to make a minimum capital investment of $100,000,000 in a taxable year, taking into account any excess investment amounts carried forward from previous years, the owner or operator may avoid revocation of its certification by paying to the department of revenue within sixty days after the end of the taxable year the amount of the utility relief provided pursuant to this section in that year.

G. EACH YEAR AFTER INITIAL CERTIFICATION, ON OR BEFORE THE ANNIVERSARY DATE OF THE APPLICATION SPECIFIED IN SUBSECTION B OF THIS SECTION, THE OWNER, OPERATOR OR AFFILIATED ENTITY MUST SUBMIT TO THE AUTHORITY:

1. DOCUMENTATION OF THE OWNER'S, OPERATOR'S OR AFFILIATED ENTITY'S PROGRESS TOWARD THE INVESTMENT REQUIRED BY SUBSECTION D, PARAGRAPH 3 OF THIS SECTION. THIS DOCUMENTATION IS NOT REQUIRED AFTER THE AUTHORITY RECEIVES A REPORT STATING THAT THE REQUIRED INVESTMENT THRESHOLD HAS BEEN REACHED.

2. DOCUMENTATION FOR EACH RENEWABLE ENERGY FACILITY THAT DEMONSTRATES THAT THE REQUIRED PORTION OF THE POWER GENERATED BY EACH FACILITY IS FOR SELF-CONSUMPTION AS REQUIRED BY SUBSECTION D, PARAGRAPH 4 OF THIS SECTION.

H. The authority and the department of revenue shall prescribe forms and procedures as necessary for the purposes of this section.

I. Proprietary business information contained in the application form described in subsection B of this section and the written notice described in subsection F of this section are confidential and may not be disclosed to the public, except that the information shall be transmitted to the department of revenue. The authority or the department of revenue may disclose the name of an international operations center that has been certified pursuant to this section.

J. Except as provided in subsection F of this section, on certification, the international operations center remains certified unless ownership of the international operations center is sold, conveyed, transferred or otherwise directly or indirectly disposed of to another entity in which the original owner holds less than a controlling interest. For the purposes of this subsection, "controlling interest" means at least eighty percent of the voting shares of a corporation or of the interests in a noncorporate entity.

K. An owner or operator may be composed of a single entity or affiliated entities.

L. IF THE INFORMATION REQUIRED BY SUBSECTION B, PARAGRAPHS 3, 4 AND 5 OF THIS SECTION AND THE DOCUMENTATION REQUIRED BY SUBSECTION D OF THIS SECTION WERE ALREADY PROVIDED TO THE DEPARTMENT OF REVENUE FOR THE PURPOSES OF THE CREDIT PROVIDED BY SECTION 43-1164.05, THE OWNER OR OPERATOR IS NOT REQUIRED TO PROVIDE THE INFORMATION OR DOCUMENTATION A SECOND TIME UNDER THIS SECTION.

M. For the purposes of this section:

1. "AFFILIATED ENTITY" MEANS

ANY OF THE FOLLOWING:

(a)
(b) any entity in which the owner or operator of the international operations center is entitled to a distributive share of the entity's income or loss.

(c) any entity, including a single-member limited liability company, that is disregarded for federal income tax purposes and is directly or indirectly owned wholly or in part by the owner or operator of the international operations center.

2. "Biomass" means organic material that is available on a renewable or recurring basis, including:

(a) forest-related materials, including mill residues, logging residues, forest thinnings, slash, brush, low-commercial value materials or undesirable species, salt cedar and other phreatophyte or woody vegetation removed from river basins or watersheds and woody material harvested for the purpose of forest fire fuel reduction or forest health and watershed improvement.

(b) agricultural-related materials, including orchard trees, vineyard, grain or crop residues, including straws and stover, aquatic plants and agricultural processed coproducts and waste products, including fats, oils, greases, whey and lactose.

(c) animal waste, including manure and slaughterhouse and other processing waste.

(d) solid woody waste materials, including landscape or right-of-way tree trimmings, rangeland maintenance residues, waste pallets, crates and manufacturing, construction and demolition wood wastes, but excluding pressure-treated, chemically treated or painted wood wastes and wood contaminated with plastic.

(e) crops and trees planted for the purpose of being used to produce energy.

(f) landfill gas, wastewater treatment gas and biosolids, including organic waste by-products generated during the wastewater treatment process.

3. "International operations center" means a facility or connected facilities under the same ownership that are subject to the investment thresholds under subsection D of this section and that self-consume renewable energy from a qualified facility pursuant to subsection D of this section. [43-1164.05, subsection 6.]

4. "Renewable energy facility" means a facility in which the owner, operator or affiliated entity, or a third-party entity on behalf of and for the benefit of the
INVESTED AT LEAST $30,000,000, THAT HAS AT LEAST TWENTY MEGAWATTS OF
GENERATING CAPACITY OR A MINIMUM TYPICAL ANNUAL GENERATION OF FORTY THOUSAND
MEGAWATT HOURS, THAT IS LOCATED ON LAND IN THIS STATE AND THAT PRODUCES
ELECTRICITY USING A RENEWABLE ENERGY RESOURCE.

5. "RENEWABLE ENERGY RESOURCE" MEANS A RESOURCE THAT GENERATES
ELECTRICITY BY USING ONLY THE FOLLOWING ENERGY SOURCES:
   (a) SOLAR LIGHT.
   (b) SOLAR HEAT.
   (c) WIND.
   (d) BIOMASS, INCLUDING FUEL CELLS SUPPLIED DIRECTLY OR INDIRECTLY
       WITH BIOMASS GENERATED FUELS.
   (e) BATTERY STORAGE THAT IS INDEPENDENT FROM OR COUPLED WITH OTHER
       SOURCES.

6. "Utility relief" means the mitigation of the tax burden on
   the retail purchaser of electricity or natural gas through the application
   of section 42-5063, subsection C, paragraph 7, section 42-5159, subsection
   G, paragraph 2 and section 42-6012, paragraph 2.
EXPLANATION OF BLEND
SECTION 41-1750

Laws 2021, Chapters 240 and 404

Laws 2021, Ch. 240, section 6  Effective September 29, 2021
Laws 2021, Ch. 404, section 56  Effective September 29, 2021

Explanation

Since these two enactments are compatible, the Laws 2021, Ch. 240 and Ch. 404 text changes to section 41-1750 are blended in the form shown on the following pages.
41-1750. Central state repository; department of public safety; duties; funds; accounts; definitions

A. The department is responsible for the effective operation of the central state repository in order to collect, store and disseminate complete and accurate Arizona criminal history records and related criminal justice information. The department shall:

1. Procure from all criminal justice agencies in this state accurate and complete personal identification data, fingerprints, charges, process control numbers and dispositions and such other information as may be pertinent to all persons who have been charged with, arrested for, convicted of or summoned to court as a criminal defendant for a felony offense or an offense involving domestic violence as defined in section 13-3601 or a violation of title 13, chapter 14 or title 28, chapter 4.

2. Collect information concerning the number and nature of offenses known to have been committed in this state and of the legal steps taken in connection with these offenses, such other information that is useful in the study of crime and in the administration of criminal justice and all other information deemed necessary to operate the statewide uniform crime reporting program and to cooperate with the federal government uniform crime reporting program.

3. Collect information concerning criminal offenses that manifest evidence of prejudice based on race, color, religion, national origin, sexual orientation, gender or disability.

4. Cooperate with the central state repositories in other states and with the appropriate agency of the federal government in the exchange of information pertinent to violators of the law.

5. Ensure the rapid exchange of information concerning the commission of crime and the detection of violators of the law among the criminal justice agencies of other states and of the federal government.

6. Furnish assistance to peace officers throughout this state in crime scene investigation for the detection of latent fingerprints and in the comparison of latent fingerprints.

7. Conduct periodic operational audits of the central state repository and of a representative sample of other agencies that contribute records to or receive criminal justice information from the central state repository or through the Arizona criminal justice information system.

8. Establish and enforce the necessary physical and system safeguards to ensure that the criminal justice information maintained and disseminated by the central state repository or through the Arizona criminal justice information system is appropriately protected from unauthorized inquiry, modification, destruction or dissemination as required by this section.

9. Aid and encourage coordination and cooperation among criminal justice agencies through the statewide and interstate exchange of criminal justice information.
10. Provide training and proficiency testing on the use of criminal justice information to agencies receiving information from the central state repository or through the Arizona criminal justice information system.

11. Operate and maintain the Arizona automated fingerprint identification system established by section 41-2411.

12. Provide criminal history record information to the fingerprinting division for the purpose of screening applicants for fingerprint clearance cards.

   B. The director may establish guidelines for the submission and retention of criminal justice information as deemed useful for the study or prevention of crime and for the administration of criminal justice.

   C. The chief officers of criminal justice agencies of this state or its political subdivisions shall provide to the central state repository fingerprints and information concerning personal identification data, descriptions, crimes for which persons are arrested, process control numbers and dispositions and such other information as may be pertinent to all persons who have been charged with, arrested for, convicted of or summoned to court as criminal defendants for felony offenses or offenses involving domestic violence as defined in section 13-3601 or violations of title 13, chapter 14 or title 28, chapter 4 that have occurred in this state.

   D. The chief officers of law enforcement agencies of this state or its political subdivisions shall provide to the department such information as necessary to operate the statewide uniform crime reporting program and to cooperate with the federal government uniform crime reporting program.

   E. The chief officers of criminal justice agencies of this state or its political subdivisions shall comply with the training and proficiency testing guidelines as required by the department to comply with the federal national crime information center mandates.

   F. The chief officers of criminal justice agencies of this state or its political subdivisions also shall provide to the department information concerning crimes that manifest evidence of prejudice based on race, color, religion, national origin, sexual orientation, gender or disability.

   G. The director shall authorize the exchange of criminal justice information between the central state repository, or through the Arizona criminal justice information system, whether directly or through any intermediary, only as follows:

   1. With criminal justice agencies of the federal government, Indian tribes, this state or its political subdivisions and other states, on request by the chief officers of such agencies or their designated representatives, specifically for the purposes of the administration of criminal justice and for evaluating the fitness of current and prospective criminal justice employees. The department may conduct periodic state and federal criminal history records checks for the purpose of updating the status of current criminal justice employees or volunteers and may notify the criminal justice agency of the results of the records check. The department is authorized to submit fingerprints to the federal bureau of investigation to be retained for the purpose of being searched by future submissions to the federal bureau of investigation including latent fingerprint searches.
2. With any noncriminal justice agency pursuant to a statute, ordinance or executive order that specifically authorizes the noncriminal justice agency to receive criminal history record information for the purpose of evaluating the fitness of current or prospective licensees, employees, contract employees or volunteers, on submission of the subject's fingerprints and the prescribed fee. Each statute, ordinance, or executive order that authorizes noncriminal justice agencies to receive criminal history record information for these purposes shall identify the specific categories of licensees, employees, contract employees or volunteers, and shall require that fingerprints of the specified individuals be submitted in conjunction with such requests for criminal history record information. The department may conduct periodic state and federal criminal history records checks for the purpose of updating the status of current licensees, employees, contract employees or volunteers and may notify the noncriminal justice agency of the results of the records check. The department is authorized to submit fingerprints to the federal bureau of investigation to be retained for the purpose of being searched by future submissions to the federal bureau of investigation including latent fingerprint searches.

3. With the board of fingerprinting for the purpose of conducting good cause exceptions pursuant to section 41-619.55 and central registry exceptions pursuant to section 41-619.57.

4. With any individual for any lawful purpose on submission of the subject of record's fingerprints and the prescribed fee.

5. With the governor, if the governor elects to become actively involved in the investigation of criminal activity or the administration of criminal justice in accordance with the governor's constitutional duty to ensure that the laws are faithfully executed or as needed to carry out the other responsibilities of the governor's office.

6. With regional computer centers that maintain authorized computer-to-computer interfaces with the department, that are criminal justice agencies or under the management control of a criminal justice agency and that are established by a statute, ordinance or executive order to provide automated data processing services to criminal justice agencies specifically for the purposes of the administration of criminal justice or evaluating the fitness of regional computer center employees who have access to the Arizona criminal justice information system and the national crime information center system.

7. With an individual who asserts a belief that criminal history record information relating to the individual is maintained by an agency or in an information system in this state that is subject to this section. On submission of fingerprints, the individual may review this information for the purpose of determining its accuracy and completeness by making application to the agency operating the system. Rules adopted under this section shall include provisions for administrative review and necessary correction of any inaccurate or incomplete information. The review and challenge process authorized by this paragraph is limited to criminal history record information.
8. With individuals and agencies pursuant to a specific agreement with a criminal justice agency to provide services required for the administration of criminal justice pursuant to that agreement if the agreement specifically authorizes access to data, limits the use of data to purposes for which given and ensures the security and confidentiality of the data consistent with this section.

9. With individuals and agencies for the express purpose of research, evaluative or statistical activities pursuant to an agreement with a criminal justice agency if the agreement specifically authorizes access to data, limits the use of data to research, evaluative or statistical purposes and ensures the confidentiality and security of the data consistent with this section.

10. With the auditor general for audit purposes.

11. With central state repositories of other states for noncriminal justice purposes for dissemination in accordance with the laws of those states.

12. On submission of the fingerprint card, with the department of child safety and a tribal social services agency to provide criminal history record information on prospective adoptive parents for the purpose of conducting the preadoption certification investigation under title 8, chapter 1, article 1 if the department of economic security is conducting the investigation, or with an agency or a person appointed by the court, if the agency or person is conducting the investigation. Information received under this paragraph shall only be used for the purposes of the preadoption certification investigation.

13. With the department of child safety, a tribal social services agency and the superior court for the purpose of evaluating the fitness of custodians or prospective custodians of juveniles, including parents, relatives and prospective guardians. Information received under this paragraph shall only be used for the purposes of that evaluation. The information shall be provided on submission of either:
   (a) The fingerprint card.
   (b) The name, date of birth and social security number of the person.

14. On submission of a fingerprint card, provide criminal history record information to the superior court for the purpose of evaluating the fitness of investigators appointed under section 14-5303 or 14-5407, guardians appointed under section 14-5206 or 14-5304 or conservators appointed under section 14-5401.

15. With the supreme court to provide criminal history record information on prospective fiduciaries pursuant to section 14-5651.

16. With the department of juvenile corrections to provide criminal history record information pursuant to section 41-2814.

17. On submission of the fingerprint card, provide criminal history record information to the Arizona peace officer standards and training board or a board certified law enforcement academy to evaluate the fitness of prospective cadets.

18. With the internet sex offender website database established pursuant to section 13-3827.
19. With licensees of the United States nuclear regulatory commission for the purpose of determining whether an individual should be granted unescorted access to the protected area of a commercial nuclear generating station on submission of the subject of record's fingerprints and the prescribed fee.

20. With the department STATE BOARD of education for the purpose of evaluating the fitness of a certificated teacher or administrator or EDUCATOR, an applicant for a teaching or an administrative certificate provided that OR A NONCERTIFICATED PERSON AS DEFINED IN SECTION 15-505 IF the department STATE BOARD of education or its employees or agents have reasonable suspicion that the certified EDUCATOR OR person engaged in conduct that would be a criminal violation of the laws of this state or was involved in immoral or unprofessional conduct or that the applicant engaged in conduct that would warrant disciplinary action if the applicant were certified at the time of the alleged conduct. The information shall be provided on the submission of either:
    (a) The fingerprint card.
    (b) The name, date of birth and social security number of the person.

21. With each school district and charter school in this state. The state board DEPARTMENT of education and the state board for charter schools shall provide the department of public safety with a current list of email addresses for each school district and charter school in this state and shall periodically provide the department of public safety with updated email addresses. If the department of public safety is notified that a person who is required to have a fingerprint clearance card to be employed by or to engage in volunteer activities at a school district or charter school has been arrested for or convicted of an offense listed in section 41-1758.03, subsection B or has been arrested for or convicted of an offense that amounts to unprofessional conduct under section 15-550, the department of public safety shall notify each school district and charter school in this state that the person's fingerprint clearance card has been suspended or revoked.

22. With a tribal social services agency and the department of child safety as provided by law, which currently is the Adam Walsh child protection and safety act of 2006 (42 United States Code section 16961), for the purposes of investigating or responding to reports of child abuse, neglect or exploitation. Information received pursuant to this paragraph from the national crime information center, the interstate identification index and the Arizona criminal justice information system network shall only be used for the purposes of investigating or responding as prescribed in this paragraph. The information shall be provided on submission to the department of public safety of either:
    (a) The fingerprints of the person being investigated.
    (b) The name, date of birth and social security number of the person.

23. With a nonprofit organization that interacts with children or vulnerable adults for the lawful purpose of evaluating the fitness of all current and prospective employees, contractors and volunteers of the organization. The criminal history record information shall be provided on submission of the applicant fingerprint card and the prescribed fee.
24. With the superior court for the purpose of determining an individual's eligibility for substance abuse and treatment courts in a family or juvenile case.

25. With the governor to provide criminal history record information on prospective gubernatorial nominees, appointees and employees as provided by law.

H. The director shall adopt rules necessary to execute this section.

I. The director, in the manner prescribed by law, shall remove and destroy records that the director determines are no longer of value in the detection or prevention of crime.

J. The director shall establish a fee in an amount necessary to cover the cost of federal noncriminal justice fingerprint processing for criminal history record information checks that are authorized by law for noncriminal justice employment, licensing or other lawful purposes. An additional fee may be charged by the department for state noncriminal justice fingerprint processing. Fees submitted to the department for state noncriminal justice fingerprint processing are not refundable.

K. The director shall establish a fee in an amount necessary to cover the cost of processing copies of department reports, eight by ten inch black and white photographs or eight by ten inch color photographs of traffic accident scenes.

L. Except as provided in subsection 0 of this section, each agency authorized by this section may charge a fee, in addition to any other fees prescribed by law, in an amount necessary to cover the cost of state and federal noncriminal justice fingerprint processing for criminal history record information checks that are authorized by law for noncriminal justice employment, licensing or other lawful purposes.

M. A fingerprint account within the records processing fund is established for the purpose of separately accounting for the collection and payment of fees for noncriminal justice fingerprint processing by the department. Monies collected for this purpose shall be credited to the account, and payments by the department to the United States for federal noncriminal justice fingerprint processing shall be charged against the account. Monies in the account not required for payment to the United States shall be used by the department in support of the department's noncriminal justice fingerprint processing duties. At the end of each fiscal year, any balance in the account not required for payment to the United States or to support the department's noncriminal justice fingerprint processing duties reverts to the state general fund.

N. A records processing fund is established for the purpose of separately accounting for the collection and payment of fees for department reports and photographs of traffic accident scenes processed by the department. Monies collected for this purpose shall be credited to the fund and shall be used by the department in support of functions related to providing copies of department reports and photographs. At the end of each fiscal year, any balance in the fund not required for support of the functions related to providing copies of department reports and photographs reverts to the state general fund.
0. The department of child safety may pay from appropriated monies the cost of federal fingerprint processing or federal criminal history record information checks that are authorized by law for employees and volunteers of the department, guardians pursuant to section 8-453, subsection A, paragraph 6, the licensing of foster parents or the certification of adoptive parents.

P. The director shall adopt rules that provide for:
1. The collection and disposition of fees pursuant to this section.
2. The refusal of service to those agencies that are delinquent in paying these fees.

Q. The director shall ensure that the following limitations are observed regarding dissemination of criminal justice information obtained from the central state repository or through the Arizona criminal justice information system:
1. Any criminal justice agency that obtains criminal justice information from the central state repository or through the Arizona criminal justice information system assumes responsibility for the security of the information and shall not secondarily disseminate this information to any individual or agency not authorized to receive this information directly from the central state repository or originating agency.
2. Dissemination to an authorized agency or individual may be accomplished by a criminal justice agency only if the dissemination is for criminal justice purposes in connection with the prescribed duties of the agency and not in violation of this section.
3. Criminal history record information disseminated to noncriminal justice agencies or to individuals shall be used only for the purposes for which it was given. Secondary dissemination is prohibited unless otherwise authorized by law.
4. The existence or nonexistence of criminal history record information shall not be confirmed to any individual or agency not authorized to receive the information itself.
5. Criminal history record information to be released for noncriminal justice purposes to agencies of other states shall only be released to the central state repositories of those states for dissemination in accordance with the laws of those states.
6. Criminal history record information shall be released to noncriminal justice agencies of the federal government pursuant to the terms of the federal security clearance information act (P.L. 99-169).

R. This section and the rules adopted under this section apply to all agencies and individuals collecting, storing or disseminating criminal justice information processed by manual or automated operations if the collection, storage or dissemination is funded in whole or in part with monies made available by the law enforcement assistance administration after July 1, 1973, pursuant to title I of the crime control act of 1973, and to all agencies that interact with or receive criminal justice information from or through the central state repository and through the Arizona criminal justice information system.

S. This section does not apply to criminal history record information contained in:
1. Posters, arrest warrants, announcements or lists for identifying or apprehending fugitives or wanted persons.

2. Original records of entry such as police blotters maintained by criminal justice agencies, compiled chronologically and required by law or long-standing custom to be made public if these records are organized on a chronological basis.

3. Transcripts or records of judicial proceedings if released by a court or legislative or administrative proceedings.

4. Announcements of executive clemency or pardon.

5. Computer databases, other than the Arizona criminal justice information system, that are specifically designed for community notification of an offender's presence in the community pursuant to section 13-3825 or for public informational purposes authorized by section 13-3827.

T. Nothing in this section prevents a criminal justice agency from disclosing to the public criminal history record information that is reasonably contemporaneous to the event for which an individual is currently within the criminal justice system, including information noted on traffic accident reports concerning citations, blood alcohol tests or arrests made in connection with the traffic accident being investigated.

U. In order to ensure that complete and accurate criminal history record information is maintained and disseminated by the central state repository:

1. The booking agency shall take legible ten-print fingerprints of all persons who are arrested for offenses listed in subsection C of this section. The booking agency shall obtain a process control number and provide to the person fingerprinted a document that indicates proof of the fingerprinting and that informs the person that the document must be presented to the court.

2. Except as provided in paragraph 3 of this subsection, if a person is summoned to court as a result of an indictment or complaint for an offense listed in subsection C of this section, the court shall order the person to appear before the county sheriff and provide legible ten-print fingerprints. The county sheriff shall obtain a process control number and provide a document to the person fingerprinted that indicates proof of the fingerprinting and that informs the person that the document must be presented to the court. For the purposes of this paragraph, "summoned" includes a written promise to appear by the defendant on a uniform traffic ticket and complaint.

3. If a person is arrested for a misdemeanor offense listed in subsection C of this section by a city or town law enforcement agency, the person shall appear before the law enforcement agency that arrested the defendant and provide legible ten-print fingerprints. The law enforcement agency shall obtain a process control number and provide a document to the person fingerprinted that indicates proof of the fingerprinting and that informs the person that the document must be presented to the court.

4. The mandatory fingerprint compliance form shall contain the following information:

(a) Whether ten-print fingerprints have been obtained from the person.
(b) Whether a process control number was obtained.
(c) The offense or offenses for which the process control number was obtained.
(d) Any report number of the arresting authority.
(e) Instructions on reporting for ten-print fingerprinting, including available times and locations for reporting for ten-print fingerprinting.
(f) Instructions that direct the person to provide the form to the court at the person's next court appearance.

5. Within ten days after a person is fingerprinted, the arresting authority or agency that took the fingerprints shall forward the fingerprints to the department in the manner or form required by the department.

6. On the issuance of a summons for a defendant who is charged with an offense listed in subsection C of this section, the summons shall direct the defendant to provide ten-print fingerprints to the appropriate law enforcement agency.

7. At the initial appearance or on the arraignment of a summoned defendant who is charged with an offense listed in subsection C of this section, if the person does not present a completed mandatory fingerprint compliance form to the court or if the court has not received the process control number, the court shall order that within twenty calendar days the defendant be ten-print fingerprinted at a designated time and place by the appropriate law enforcement agency.

8. If the defendant fails to present a completed mandatory fingerprint compliance form or if the court has not received the process control number, the court, on its own motion, may remand the defendant into custody for ten-print fingerprinting. If otherwise eligible for release, the defendant shall be released from custody after being ten-print fingerprinted.

9. In every criminal case in which the defendant is incarcerated or fingerprinted as a result of the charge, an originating law enforcement agency or prosecutor, within forty days of the disposition, shall advise the central state repository of all dispositions concerning the termination of criminal proceedings against an individual arrested for an offense specified in subsection C of this section. This information shall be submitted on a form or in a manner required by the department.

10. Dispositions resulting from formal proceedings in a court having jurisdiction in a criminal action against an individual who is arrested for an offense specified in subsection C of this section or section 8-341, subsection W-V, paragraph 3 shall be reported to the central state repository within forty days of the date of the disposition. This information shall be submitted on a form or in a manner specified by rules approved by the supreme court.
11. The state department of corrections or the department of juvenile corrections, within forty days, shall advise the central state repository that it has assumed supervision of a person convicted of an offense specified in subsection C of this section or section 8-341, subsection W-V, paragraph 3. The state department of corrections or the department of juvenile corrections shall also report dispositions that occur thereafter to the central state repository within forty days of the date of the dispositions. This information shall be submitted on a form or in a manner required by the department of public safety.

12. Each criminal justice agency shall query the central state repository before dissemination of any criminal history record information to ensure the completeness of the information. Inquiries shall be made before any dissemination except in those cases in which time is of the essence and the repository is technically incapable of responding within the necessary time period. If time is of the essence, the inquiry shall still be made and the response shall be provided as soon as possible.

V. The director shall adopt rules specifying that any agency that collects, stores or disseminates criminal justice information that is subject to this section shall establish effective security measures to protect the information from unauthorized access, disclosure, modification or dissemination. The rules shall include reasonable safeguards to protect the affected information systems from fire, flood, wind, theft, sabotage or other natural or man-made hazards or disasters.

W. The department shall make available to agencies that contribute to, or receive criminal justice information from, the central state repository or through the Arizona criminal justice information system a continuing training program in the proper methods for collecting, storing and disseminating information in compliance with this section.

X. Nothing in this section creates a cause of action or a right to bring an action including an action based on discrimination due to sexual orientation.

Y. For the purposes of this section:

1. "Administration of criminal justice" means performance of the detection, apprehension, detention, pretrial release, posttrial release, prosecution, adjudication, correctional supervision or rehabilitation of criminal offenders. Administration of criminal justice includes enforcement of criminal traffic offenses and civil traffic violations, including parking violations, when performed by a criminal justice agency. Administration of criminal justice also includes criminal identification activities and the collection, storage and dissemination of criminal history record information.

2. "Administrative records" means records that contain adequate and proper documentation of the organization, functions, policies, decisions, procedures and essential transactions of the agency and that are designed to furnish information to protect the rights of this state and of persons directly affected by the agency’s activities.

3. "Arizona criminal justice information system" or "system" means the statewide information system managed by the director for the collection, processing, preservation, dissemination and exchange of criminal justice
information and includes the electronic equipment, facilities, procedures and agreements necessary to exchange this information.

4. "Booking agency" means the county sheriff or, if a person is booked into a municipal jail, the municipal law enforcement agency.

5. "Central state repository" means the central location within the department for the collection, storage and dissemination of Arizona criminal history records and related criminal justice information.

6. "Criminal history record information" and "criminal history record" means information that is collected by criminal justice agencies on individuals and that consists of identifiable descriptions and notations of arrests, detentions, indictments and other formal criminal charges, and any disposition arising from those actions, sentencing, formal correctional supervisory action and release. Criminal history record information and criminal history record do not include identification information to the extent that the information does not indicate involvement of the individual in the criminal justice system or information relating to juveniles unless they have been adjudicated as adults.

7. "Criminal justice agency" means either:
   
   (a) A court at any governmental level with criminal or equivalent jurisdiction, including courts of any foreign sovereignty duly recognized by the federal government.

   (b) A government agency or subunit of a government agency that is specifically authorized to perform as its principal function the administration of criminal justice pursuant to a statute, ordinance or executive order and that allocates more than fifty percent of its annual budget to the administration of criminal justice. This subdivision includes agencies of any foreign sovereignty duly recognized by the federal government.

8. "Criminal justice information" means information that is collected by criminal justice agencies and that is needed for the performance of their legally authorized and required functions, such as criminal history record information, citation information, stolen property information, traffic accident reports, wanted persons information and system network log searches. Criminal justice information does not include the administrative records of a criminal justice agency.

9. "Disposition" means information disclosing that a decision has been made not to bring criminal charges or that criminal proceedings have been concluded or information relating to sentencing, correctional supervision, release from correctional supervision, the outcome of an appellate review of criminal proceedings or executive clemency.

10. "Dissemination" means the written, oral or electronic communication or transfer of criminal justice information to individuals and agencies other than the criminal justice agency that maintains the information. Dissemination includes the act of confirming the existence or nonexistence of criminal justice information.
11. "Management control":
   (a) Means the authority to set and enforce:
   (i) Priorities regarding development and operation of criminal justice information systems and programs.
   (ii) Standards for the selection, supervision and termination of personnel involved in the development of criminal justice information systems and programs and in the collection, maintenance, analysis and dissemination of criminal justice information.
   (iii) Policies governing the operation of computers, circuits and telecommunications terminals used to process criminal justice information to the extent that the equipment is used to process, store or transmit criminal justice information.

   (b) Includes the supervision of equipment, systems design, programming and operating procedures necessary for the development and implementation of automated criminal justice information systems.

12. "Process control number" means the Arizona automated fingerprint identification system number that attaches to each arrest event at the time of fingerprinting and that is assigned to the arrest fingerprint card, disposition form and other pertinent documents.

13. "Secondary dissemination" means the dissemination of criminal justice information from an individual or agency that originally obtained the information from the central state repository or through the Arizona criminal justice information system to another individual or agency.

14. "Sexual orientation" means consensual homosexuality or heterosexuality.

15. "Subject of record" means the person who is the primary subject of a criminal justice record.
EXPLANATION OF BLEND
SECTION 41-1758

Laws 2021, Chapters 210, 226, 282, 301 and 323

Laws 2021, Ch.210, section 13                           Effective September 29, 2021
Laws 2021, Ch. 226, section 19                          Effective September 29, 2021
Laws 2021, Ch. 282, section 3                           Effective September 29, 2021
Laws 2021, Ch. 301, section 14                          Effective January 1, 2022
Laws 2021, Ch. 323, section 3                           Effective January 1, 2022

Explanation

Since these five enactments are compatible, the Laws 2021, Ch. 210, Ch. 226, Ch. 282, Ch. 301 and Ch. 323 text changes to section 41-1758 are blended effective from and after December 31, 2021 in the form shown on the following pages.

The Laws 2021, Ch.323 version of section 41-1758, paragraph 1 added the word "occupation" before "therapy". The Ch. 323 version added the word "occupational" before "therapy". Since this would not produce a substantive change, the blend version reflects the Ch. 323 version.
BLEND OF SECTION 41-1758
Laws 2021, Chapters 210, 226, 282, 301 and 323

41-1758. Definitions
In this article, unless the context otherwise requires:
1. "Agency" means the supreme court, the department of economic security, the department of child safety, the department of education, the department of health services, the department of juvenile corrections, the department of emergency and military affairs, the department of public safety, the department of transportation, the state real estate department, the department of insurance and financial institutions, the board of fingerprinting, the Arizona game and fish department, the Arizona department of agriculture, the board of examiners of nursing care institution administrators and assisted living facility managers, the state board of dental examiners, the Arizona state board of pharmacy, or the board of physical therapy.

2. THE STATE BOARD OF PSYCHOLOGIST EXAMINERS

3. THE BOARD OF ATHLETIC TRAINING, THE BOARD OF OCCUPATIONAL THERAPY EXAMINERS, THE STATE BOARD OF PODIATRY EXAMINERS OR THE STATE BOARD OF TECHNICAL REGISTRATION.

2. "Division" means the fingerprinting division in the department of public safety.

3. "Electronic or internet-based fingerprinting services" means a secure system for digitizing applicant fingerprints and transmitting the applicant data and fingerprints of a person or entity submitting fingerprints to the department of public safety for any authorized purpose under this title. For the purposes of this paragraph, "secure system" means a system that complies with the information technology security policy approved by the department of public safety.

4. "Good cause exception" means the issuance of a fingerprint clearance card to an applicant pursuant to section 41-619.55.

5. "Person" means a person who is required to be fingerprinted pursuant to any of the following:
   (a) Section 3-314.
   (b) Section 8-105.
   (c) Section 8-322.
   (d) Section 8-463.
   (e) Section 8-509.
   (f) Section 8-802.
   (g) Section 15-183.
   (h) Section 15-503.
   (i) Section 15-512.
   (j) Section 15-534.
   (k) Section 15-763.01.
   (l) Section 15-782.02.
   (m) Section 15-1330.
(n) Section 15-1881.
(o) Section 17-215.
(p) Section 28-3228.
(q) Section 28-3413.
(r) Section 32-122.02.
(s) Section 32-122.05.
(t) Section 32-122.06.

Ch. 301
— (u) SECTION 32-823.

(v) Section 32-1232.
(w) Section 32-1276.01.
(x) Section 32-1284.
(y) Section 32-1297.01.
(z) Section 32-1904.
(aa) Section 32-1941.

Ch. 226

(cc) Section 32-2022.

Ch. 210
— (dd) SECTION 32-2063.

(ee) Section 32-2108.01.
(ff) Section 32-2123.
(gg) Section 32-2371.

Ch. 301 and 323
— (hh) SECTION 32-3430.

(ii) Section 32-3620.
(jj) Section 32-3668.
(kk) Section 32-3669.

Ch. 301
— (ll) SECTION 32-4128.

(mm) Section 36-113.
(nn) Section 36-207.
(oo) Section 36-411.
(pp) Section 36-425.03.
(qq) Section 36-446.04.
(rr) Section 36-594.01.
(ss) Section 36-594.02.

Ch. 282
— (tt) SECTION 36-766.01.

(uu) Section 36-882.
(vv) Section 36-883.02.
(ww) Section 36-897.01.
(xx) Section 36-897.03.
(yy) Section 36-3008.
(zz) Section 41-619.52.

(aaa) Section 41-619.53.
(bbb) Section 41-1964.
(ccc) Section 41-1967.01.
(ddd) Section 41-1968.
(eee) Section 41-1969.
(fff) Section 41-2814.
(ggg) Section 46-141, subsection A or B.
(hhh) Section 46-321.

6. "Vulnerable adult" has the same meaning prescribed in section 13-3623.
EXPLANATION OF BLEND
SECTION 41-1758.01

Laws 2021, Chapters 210, 226, 282, 301 and 323

Laws 2021, Ch. 210, section 14  Effective September 29, 2021
Laws 2021, Ch. 226, section 20  Effective September 29, 2021
Laws 2021, Ch. 282, section 4   Effective September 29, 2021
Laws 2021, Ch. 301, section 15  Effective January 1, 2022
Laws 2021, Ch. 323, section 4   Effective January 1, 2022

Explanation

Since these five enactments are compatible, the Laws 2021, Ch. 210, Ch. 226, Ch. 282, Ch. 301 and Ch. 323 text changes to section 41-1758.01 are blended effective from and after December 31, 2021 in the form shown on the following pages.
41-1758.01. Fingerprinting division: powers and duties

A. The fingerprinting division is established in the department of public safety and shall:

1. Conduct fingerprint background checks for persons and applicants who are seeking licenses from state agencies, employment with licensees, contract providers and state agencies or employment or educational opportunities with agencies that require fingerprint background checks pursuant to sections 3-314, 8-105, 8-322, 8-463, 8-509, 8-802, 15-183, 15-503, 15-512, 15-534, 15-763.01, 15-782.02, 15-1330, 15-1881, 17-215, 28-3228, 28-3413, 32-122.02, 32-122.05, 32-122.06, 32-1232, 32-1276.01, 32-1284, 32-1297.01, 32-1904, 32-1941, [32-823, 32-1982.]

2. Issue fingerprint clearance cards. On issuance, a fingerprint clearance card becomes the personal property of the cardholder and the cardholder shall retain possession of the fingerprint clearance card.

3. On submission of an application for a fingerprint clearance card, collect the fees established by the board of fingerprinting pursuant to section 41-619.53 and deposit, pursuant to sections 35-146 and 35-147, the monies collected in the board of fingerprinting fund.

4. Inform in writing each person who submits fingerprints for a fingerprint background check of the right to petition the board of fingerprinting for a good cause exception pursuant to section 41-1758.03, 41-1758.04 or 41-1758.07.

5. If after conducting a state and federal criminal history records check the division determines that it is not authorized to issue a fingerprint clearance card to a person, inform the person in writing that the division is not authorized to issue a fingerprint clearance card. The notice shall include the criminal history information on which the denial was based. This criminal history information is subject to dissemination restrictions pursuant to section 41-1750 and Public Law 92-544.

6. Notify the person in writing if the division suspends, revokes or places a driving restriction notation on a fingerprint clearance card pursuant to section 41-1758.04. The notice shall include the criminal history information on which the suspension, revocation or placement of
the driving restriction notation was based. This criminal history information is subject to dissemination restrictions pursuant to section 41-1750 and Public Law 92-544.

7. Administer and enforce this article.

B. The fingerprinting division may contract for electronic or internet-based fingerprinting services through an entity or entities for the acquisition and transmission of applicant fingerprint and data submissions to the department, including identity verified fingerprints pursuant to section 15-106. The entity or entities contracted by the department of public safety may charge the applicant a fee for services provided pursuant to this article. The entity or entities contracted by the department of public safety shall comply with:

1. All information privacy and security measures and submission standards established by the department of public safety.
2. The information technology security policy approved by the department of public safety.
EXPLANATION OF BLEND
SECTION 41-5784

Laws 2021, Chapters 67 and 404

Laws 2021, Ch. 67, section 2
 Effective September 29, 2021
Laws 2021, Ch. 404, section 86
 Effective September 29, 2021

Explanation

Since the Ch. 404 version includes all the changes made by the Ch. 67 version, the Laws 2021, Ch. 404 amendment of section 41-5784 is the blend of both the Laws 2021, Ch. 67 and Ch. 404 versions.
41-5784. School improvement revenue bond debt service fund

A. The school facilities board shall establish a school improvement revenue bond debt service fund consisting of monies received by the school facilities board pursuant to section 42-5029, subsection E, section 42-5029.02, subsection A, paragraph 1 and section 37-521, subsection B, paragraph 1. All monies received pursuant to section 42-5029, subsection E and section 42-5029.02, subsection A, paragraph 1 shall be accounted for separately and shall be used only for debt service of school improvement revenue bonds. All monies received pursuant to section 37-521, subsection B, paragraph 1 shall be accounted for separately and shall be used only for debt service of qualified zone academy bonds.

B. Monies in the school improvement revenue bond debt service fund may be used only for the purposes authorized by this article.

C. The state treasurer or bond trustee shall administer and account for the school improvement revenue bond debt service fund.
EXPLANATION OF BLEND
SECTION 41-5785

Laws 2021, Chapters 67 and 404

Laws 2021, Ch. 67, section 3  Effective September 29, 2021
Laws 2021, Ch. 404, section 87  Effective September 29, 2021

Explanation

Since these two enactments are compatible, the Laws 2021, Ch. 67 and Ch. 404 text changes to section 41-5785 are blended in the form shown on the following page.
41-5785. Securing principal and interest

A. In connection with issuing bonds authorized by this article and to secure the principal and interest on the bonds, the school facilities board by resolution may:

1. Segregate the school improvement revenue bond debt service fund into one or more accounts and subaccounts and provide that bonds issued under this article may be secured by a lien on all or part of the monies paid into the revenue bond debt service fund or into any account or subaccount in the fund.

2. Provide that the bonds issued under this article are BE secured by a first lien on the monies paid into the school improvement revenue bond debt service fund as provided by section 42-5029, subsection E, paragraph 1 and section 42-5029.02, subsection A, paragraph 1 and pledge and assign to or in trust for the benefit of the holder or holders of the bonds all or part of the monies in the school improvement revenue bond debt service fund, in any account or subaccount in the fund or in the school improvement revenue bond proceeds fund as is necessary to secure and pay the principal, the interest and any premium on the bonds as they come due.

3. Establish priorities among bondholders based on criteria adopted by the board.

4. Set aside, regulate and dispose of reserves and sinking accounts.

5. Prescribe the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent to and the manner in which the consent may be given.

6. Provide for payment of [bond-related] PAYING [BOND-RELATED] expenses from the proceeds of the sale of the bonds or other revenues authorized by this article and available to the board.

7. Provide for the services of trustees, cotrustees, agents and consultants and other specialized services with respect to the bonds.

8. Take any other action that in any way may affect the security and protection of the bonds or interest on the bonds.

9. Refund any bonds issued by the board, if these bonds are secured from the same source of revenues as the bonds authorized by this article, by issuing new bonds, whether at or before maturity of the bonds being refunded.

10. Issue bonds partly to refund outstanding bonds and partly for any other purpose consistent with this article.

B. Bonds THAT ARE issued to refund any bonds [THAT ARE] issued by the board as provided by subsection A, paragraphs 9 and 10 of this section are not subject to legislative authorization or subject to the eight hundred million dollar limitation $800,000,000 LIMIT prescribed by section 41-5781, subsection A.
EXPLANATION OF BLEND
SECTION 42-5009

Laws 2021, Chapters 220 and 417

Laws 2021, Ch. 220, section 3 Effective September 29, 2021
Laws 2021, Ch. 417, section 3 Effective September 29, 2021

Explanation

Since these two enactments are compatible, the Laws 2021, Ch. 220 and Ch. 417 text changes to section 42-5009 are blended in the form shown on the following pages.
42-5009. **Certificates establishing deductions; liability for making false certificate; tax exclusion; definitions**

A. A person who conducts any business classified under article 2 of this chapter may establish entitlement to the allowable deductions from the tax base of that business by both:

1. Marking the invoice for the transaction to indicate that the gross proceeds of sales or gross income derived from the transaction was deducted from the tax base.

2. Obtaining a certificate executed by the purchaser indicating the name and address of the purchaser, the precise nature of the business of the purchaser, the purpose for which the purchase was made, the necessary facts to establish the appropriate deduction and the tax license number of the purchaser to the extent the deduction depends on the purchaser conducting business classified under article 2 of this chapter and a certification that the person executing the certificate is authorized to do so on behalf of the purchaser. The certificate may be disregarded if the seller has reason to believe that the information contained in the certificate is not accurate or complete.

B. A person who does not comply with subsection A of this section may establish entitlement to the deduction by presenting facts necessary to support the entitlement, but the burden of proof is on that person.

C. The department may prescribe a form for the certificate described in subsection A of this section. Under such rules as it may prescribe, the department may also describe transactions with respect to which a person is not entitled to rely solely on the information contained in the certificate provided for in subsection A of this section but must instead obtain such additional information as required by the rules in order to be entitled to the deduction.

D. If a seller is entitled to a deduction by complying with subsection A of this section, the department may require the purchaser that caused the execution of the certificate to establish the accuracy and completeness of the information required to be contained in the certificate that would entitle the seller to the deduction. If the purchaser cannot establish the accuracy and completeness of the information, the purchaser is liable in an amount equal to any tax, penalty and interest that the seller would have been required to pay under this article if the seller had not complied with subsection A of this section. Payment of the amount under this subsection exempts the purchaser from liability for any tax imposed under article 4 of this chapter. The amount shall be treated as tax revenues collected from the seller in order to designate the distribution base for purposes of section 42-5029.

E. If a seller is entitled to a deduction by complying with subsection B of this section, the department may require the purchaser to
establish the accuracy and completeness of the information provided to the seller that entitled the seller to the deduction. If the purchaser cannot establish the accuracy and completeness of the information, the purchaser is liable in an amount equal to any tax, penalty and interest that the seller would have been required to pay under this article if the seller had not complied with subsection B of this section. Payment of the amount under this subsection exempts the purchaser from liability for any tax imposed under article 4 of this chapter. The amount shall be treated as tax revenues collected from the seller in order to designate the distribution base for purposes of section 42-5029.

F. The department may prescribe a form for a certificate used to establish entitlement to the deductions described in section 42-5061, subsection A, paragraph 46 and section 42-5063, subsection B, paragraph 3. Under rules the department may prescribe, the department may also require additional information for the seller to be entitled to the deduction. If a seller is entitled to the deductions described in section 42-5061, subsection A, paragraph 46 and section 42-5063, subsection B, paragraph 3, the department may require the purchaser who executed the certificate to establish the accuracy and completeness of the information contained in the certificate that would entitle the seller to the deduction. If the purchaser cannot establish the accuracy and completeness of the information, the purchaser is liable in an amount equal to any tax, penalty and interest that the seller would have been required to pay under this article. Payment of the amount under this subsection exempts the purchaser from liability for any tax imposed under article 4 of this chapter. The amount shall be treated as tax revenues collected from the seller in order to designate the distribution base for purposes of section 42-5029.

G. If a seller claims a deduction under section 42-5061, subsection A, paragraph 25 and establishes entitlement to the deduction with an exemption letter that the purchaser received from the department and the exemption letter was based on a contingent event, the department may require the purchaser that received the exemption letter to establish the satisfaction of the contingent event within a reasonable time. If the purchaser cannot establish the satisfaction of the event, the purchaser is liable in an amount equal to any tax, penalty and interest that the seller would have been required to pay under this article if the seller had not been furnished the exemption letter. Payment of the amount under this subsection exempts the purchaser from liability for any tax imposed under article 4 of this chapter. The amount shall be treated as tax revenues collected from the seller in order to designate the distribution base for purposes of section 42-5029. For the purposes of this subsection, "reasonable time" means a time limitation that the department determines and that does not exceed the time limitations pursuant to section 42-1104.

H. The department shall prescribe forms for certificates used to establish the satisfaction of the criteria necessary to qualify the sale of a motor vehicle for the deductions described in section 42-5061, subsection A, paragraph 14, paragraph 28, subdivision (a) and paragraph 44 and subsection U. Except as provided in subsection J of this section, to establish entitlement to these deductions, a motor vehicle dealer shall retain:
1. A valid certificate as prescribed by this subsection completed by the purchaser and obtained prior to BEFORE the issuance of the nonresident registration permit authorized by section 28-2154.

2. A copy of the nonresident registration permit authorized by section 28-2154.

3. A legible copy of a current valid driver license issued to the purchaser by another state or foreign country that indicates an address outside of this state. For the sale of a motor vehicle to a nonresident entity, the entity's representative must have a current valid driver license issued by the same jurisdiction as that in which the entity is located.

4. For the purposes of the deduction provided by section 42-5061, subsection A, paragraph 14, a certificate documenting the delivery of the motor vehicle to an out-of-state location.

I. Notwithstanding subsection A, paragraph 2 of this section, if a motor vehicle dealer has established entitlement to a deduction by complying with subsection H of this section, the department may require the purchaser who executed the certificate to establish the accuracy and completeness of the information contained in the certificate that entitled the motor vehicle dealer to the deduction. If the purchaser cannot establish the accuracy and completeness of the information, the purchaser is liable in an amount equal to any tax, penalty and interest that the motor vehicle dealer would have been required to pay under this article and under articles IV and V of the model city tax code as defined in section 42-6051. Payment of the amount under this subsection exempts the purchaser from liability for any tax imposed under article 4 of this chapter and any tax imposed under article VI of the model city tax code as defined in section 42-6051. The amount shall be treated as tax revenues collected from the motor vehicle dealer in order to designate the distribution base for purposes of section 42-5029.

J. To establish entitlement to the deduction described in section 42-5061, subsection A, paragraph 44, a public consignment auction dealer as defined in section 28-4301 shall submit the valid certificate prescribed by subsection H of this section to the department and retain a copy for its records.

K. Notwithstanding any other law, compliance with subsection H of this section by a motor vehicle dealer entitles the motor vehicle dealer to the exemption provided in section 42-6004, subsection A, paragraph 4.

L. The department shall prescribe a form for a certificate to be used by a person that is not subject to tax under section 42-5075 when the person is engaged by a contractor that is subject to tax under section 42-5075 for a project that is taxable under section 42-5075. The certificate permits the person purchasing tangible personal property to be incorporated or fabricated by the person into any real property, structure, project, development or improvement to provide documentation to a retailer that the sale of tangible personal property qualifies for the deduction under section 42-5061, subsection A, paragraph 27, subdivision (b). A prime contractor shall obtain the certificate from the department and shall provide a copy to any such person working on the project. The prime contractor shall obtain a new certificate for each project to which this subsection applies. For the purposes of this subsection, the following apply:
1. The person that is not subject to tax under section 42-5075 may use the certificate issued pursuant to this subsection only with respect to tangible personal property that will be incorporated into a project for which the gross receipts are subject to tax under section 42-5075.

2. The department shall issue the certificate to the prime contractor on receiving sufficient documentation to establish that the prime contractor meets the requirements of this subsection.

3. If any person uses the certificate provided under this subsection to purchase tangible personal property to be used in a project that is not subject to tax under section 42-5075, the person is liable in an amount equal to any tax, penalty and interest that the seller would have been required to pay under this article if the seller had not complied with subsection A of this section. Payment of the amount under this section exempts the person from liability for any tax imposed under article 4 of this chapter. The amount shall be sourced under section 42-5040, subsection A, paragraph 2.

M. Notwithstanding any other law, compliance with subsection L of this section by a person that is not subject to tax under section 42-5075 entitles the person to the exemption allowed by section 465, subsection (k) of the model city tax code when purchasing tangible personal property to be incorporated or fabricated by the person into any real property, structure, project, development or improvement.

N. The requirements of subsections A and B of this section do not apply to owners, proprietors or tenants of agricultural lands or farms who sell livestock or poultry feed that is grown or raised on their lands to any of the following:

1. Persons who feed their own livestock or poultry.
2. Persons who are engaged in the business of producing livestock or poultry commercially.
3. Persons who are engaged in the business of feeding livestock or poultry commercially or who board livestock noncommercially.

O. A vendor who has reason to believe that a certificate prescribed by this section is not accurate or complete will not be relieved of the burden of proving entitlement to the exemption. A vendor that accepts a certificate in good faith will be relieved of the burden of proof and the purchaser may be required to establish the accuracy of the claimed exemption. If the purchaser cannot establish the accuracy and completeness of the information provided in the certificate, the purchaser is liable for an amount equal to the transaction privilege tax, penalty and interest that the vendor would have been required to pay if the vendor had not accepted the certificate.

P. Notwithstanding any other law, an online lodging operator, as defined in section 42-5076, shall be entitled to an exclusion from any applicable taxes for any online lodging transaction, as defined in section 42-5076, facilitated by an online lodging marketplace, as defined in section 42-5076, for which the online lodging operator has obtained from the online lodging marketplace written notice that the online lodging marketplace is registered with the department to collect applicable taxes for all online lodging transactions facilitated by the online lodging marketplace, and
transaction history documenting tax collected by the online lodging marketplace, pursuant to section 42-5005, subsection L.

Q. The department shall prescribe the form of a certificate to be used by a person purchasing an aircraft to document eligibility for a deduction pursuant to section 42-5061, subsection B, paragraph 7-8, subdivision (a), item (v) or an exemption pursuant to section 42-5159, subsection B, paragraph 7-8, subdivision (a), item (v), relating to aircraft. The person must provide this certificate and documentation confirming that the operational control of the aircraft has been transferred or will be transferred immediately after the purchase to one or more persons described in section 42-5061, subsection B, paragraph 7-8, subdivision (a), item (i), (ii), (iii) or (iv) or section 42-5159, subsection B, paragraph 7-8, subdivision (a), item (i), (ii), (iii) or (iv). Operational control of the aircraft must be transferred for at least fifty percent of the aircraft's flight hours. If such operational control is not transferred for at least fifty percent of the aircraft's flight hours during the recapture period, the owner of the aircraft is liable for an amount equal to any tax that the seller or purchaser would have been required to pay under this chapter at the time of the sale, plus penalty and interest. The recapture period begins on the date that operational control of the aircraft is first transferred and ends on the later of the date the aircraft is fully depreciated for federal income tax purposes or five years after operational control was first transferred. For the purposes of this subsection, operational control of the aircraft must be within the meaning of federal aviation administration operations specification A008, or its successor, except that:

1. If it is determined that operational control has been transferred for less than fifty percent but more than forty percent of the aircraft's flight hours, the owner of the aircraft is liable for an amount equal to any tax that the seller or purchaser would have been required to pay under this chapter at the time of the sale, plus interest.

2. If the aircraft is sold during the recapture period, the seller is not liable for the amount determined pursuant to this subsection unless the operational control of the aircraft had not been transferred for at least fifty percent of the aircraft's flight hours at the time of the sale.

R. NOTwithstanding any other law, a shared vehicle owner is entitled to an exclusion from any applicable taxes for a shared vehicle transaction that is facilitated by a peer-to-peer car sharing program and for which the peer-to-peer car sharing program has collected and remitted applicable taxes.

S. For the purposes of this section, "peer-to-peer car sharing program", "shared vehicle owner" and "shared vehicle transaction" have the same meanings prescribed in section 28-9601.
EXPLANATION OF BLEND
SECTION 42-5061 (as amended by Laws 2019, Ch. 273, section 7 and Ch. 288, section 1)

Laws 2021, Chapters 266, 412, 417 and 443

Laws 2021, Ch. 266, section 3
Effective September 29, 2021
(Retroactive to September 13, 2013)

Laws 2021, Ch. 412, section 7
Effective September 29, 2021
(Retroactive to January 1, 2016)

Laws 2021, Ch. 417, section 4
Effective September 29, 2021

Laws 2021, Ch. 443, section 2
Effective September 29, 2021

Explanation

Since these four enactments are compatible, the Laws 2021, Ch. 266, Ch. 412, Ch. 417 and Ch. 443 text changes to section 42-5061, as amended by Laws 2019, Ch. 273, section 7 and Ch. 288, section 1, are blended in the form shown on the following pages.
42-5061. Retail classification: definitions

A. The retail classification is comprised of the business of selling tangible personal property at retail. The tax base for the retail classification is the gross proceeds of sales or gross income derived from the business. The tax imposed on the retail classification does not apply to the gross proceeds of sales or gross income from:

1. Professional or personal service occupations or businesses that involve sales or transfers of tangible personal property only as inconsequential elements.
2. Services rendered in addition to selling tangible personal property at retail.
3. Sales of warranty or service contracts. The storage, use or consumption of tangible personal property provided under the conditions of such contracts is subject to tax under section 42-5156.
4. Sales of tangible personal property by any nonprofit organization organized and operated exclusively for charitable purposes and recognized by the United States internal revenue service under section 501(c)(3) of the internal revenue code.
5. Sales to persons engaged in business classified under the restaurant classification of articles used by human beings for food, drink or condiment, whether simple, mixed or compounded.
6. Business activity that is properly included in any other business classification that is taxable under this article.
7. The sale of stocks and bonds.
8. Drugs and medical oxygen, including delivery hose, mask or tent, regulator and tank, on the prescription of IF PRESCRIBED BY a member of the medical, dental or veterinarian profession who is licensed by law to administer such substances.
9. Prosthetic appliances as defined in section 23-501 and as prescribed or recommended by a health professional who is licensed pursuant to title 32, chapter 7, 8, 11, 13, 14, 15, 16, 17 or 29.
10. Insulin, insulin syringes and glucose test strips.
11. Prescription eyeglasses or contact lenses.
12. Hearing aids as defined in section 36-1901.
13. Durable medical equipment that has a centers for medicare and medicaid services common procedure code, is designated reimbursable by medicare, is prescribed by a person who is licensed under title 32, chapter 7, 8, 13, 14, 15, 17 or 29, can withstand repeated use, is primarily and customarily used to serve a medical purpose, is generally not useful to a person in the absence of illness or injury and is appropriate for use in the home.
14. Sales of motor vehicles to nonresidents of this state for use outside this state if the motor vehicle dealer ships or delivers the motor vehicle to a destination out of this state.

15. Food, as provided in and subject to the conditions of article 3 of this chapter and sections 42-5074 and 42-6017.

16. Items purchased with United States department of agriculture coupons issued under the supplemental nutrition assistance program pursuant to the food and nutrition act of 2008 (P.L. 88-525; 78 Stat. 703; 7 United States Code sections 2011 through 2036b) by the United States department of agriculture food and nutrition service or food instruments issued under section 17 of the child nutrition act (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; P.L. 111-296; 42 United States Code section 1786).

17. Textbooks by any bookstore that are required by any state university or community college.

18. Food and drink to a person that is engaged in a business that is classified under the restaurant classification and that provides such food and drink without monetary charge to its employees for their own consumption on the premises during the employees' hours of employment.

19. Articles of food, drink or condiment and accessory tangible personal property to a school district or charter school if such articles and accessory tangible personal property are to be prepared and served to persons for consumption on the premises of a public school within the district or on the premises of the charter school during school hours.

20. Lottery tickets or shares pursuant to title 5, chapter 5.1, article 1.

21. The sale of cash equivalents and the sale of precious metal bullion and monetized bullion to the ultimate consumer, but the sale of coins or other forms of money for manufacture into jewelry or works of art is subject to the tax and the gross proceeds of sales or gross income derived from the redemption of any cash equivalent by the holder as a means of payment for goods or services that are taxable under this article is subject to the tax. For the purposes of this paragraph:

(a) "Cash equivalents" means items or intangibles, whether or not negotiable, that are sold to one or more persons, through which a value denominated in money is purchased in advance and may be redeemed in full or in part for tangible personal property, intangibles or services. Cash equivalents include gift cards, stored value cards, gift certificates, vouchers, traveler's checks, money orders or other instruments, orders or electronic mechanisms, such as an electronic code, personal identification number or digital payment mechanism, or any other prepaid intangible right to acquire tangible personal property, intangibles or services in the future, whether from the seller of the cash equivalent or from another person. Cash equivalents do not include either of the following:

(1) Items or intangibles that are sold to one or more persons, through which a value is not denominated in money.

(ii) Prepaid calling cards or prepaid authorization numbers for telecommunications services made taxable by subsection P of this section.
(b) "Monetized bullion" means coins and other forms of money that are manufactured from gold, silver or other metals and that have been or are used as a medium of exchange in this or another state, the United States or a foreign nation.

(c) "Precious metal bullion" means precious metal, including gold, silver, platinum, rhodium and palladium, that has been smelted or refined so that its value depends on its contents and not on its form.

22. Motor vehicle fuel and use fuel that are subject to a tax imposed under title 28, chapter 16, article 1, sales of use fuel to a holder of a valid single trip use fuel tax permit issued under section 28-5739, sales of aviation fuel that are subject to the tax imposed under section 28-8344 and sales of jet fuel that are subject to the tax imposed under article 8 of this chapter.

23. Tangible personal property sold to a person engaged in the business of leasing or renting such property under the personal property rental classification if such property is to be leased or rented by such person.

24. Tangible personal property sold in interstate or foreign commerce if prohibited from being so taxed by the constitution of the United States or the constitution of this state.

25. Tangible personal property sold to:
   (a) A qualifying hospital as defined in section 42-5001.
   (b) A qualifying health care organization as defined in section 42-5001 if the tangible personal property is used by the organization solely to provide health and medical related educational and charitable services.
   (c) A qualifying health care organization as defined in section 42-5001 if the organization is dedicated to providing educational, therapeutic, rehabilitative and family medical education training for blind and visually impaired children and children with multiple disabilities from the time of birth to age twenty-one.
   (d) A qualifying community health center as defined in section 42-5001.
   (e) A nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code and that regularly serves meals to the needy and indigent on a continuing basis at no cost.
   (f) For taxable periods beginning from and after June 30, 2001, a nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code and that provides residential apartment housing for low-income persons over sixty-two years of age in a facility that qualifies for a federal housing subsidy, if the tangible personal property is used by the organization solely to provide residential apartment housing for low-income persons over sixty-two years of age in a facility that qualifies for a federal housing subsidy.
   (g) A qualifying health sciences educational institution as defined in section 42-5001.
   (h) Any person representing or working on behalf of another person described in subdivisions (a) through (g) of this paragraph if the
tangible personal property is incorporated or fabricated into a project described in section 42-5075, subsection 0.

26. Magazines or other periodicals or other publications by this state to encourage tourist travel.

27. Tangible personal property sold to:
   (a) A person that is subject to tax under this article by reason of being engaged in business classified under section 42-5075 or to a subcontractor working under the control of a person engaged in business classified under section 42-5075, if the property so sold is any of the following:
      (i) Incorporated or fabricated by the person into any real property, structure, project, development or improvement as part of the business.
      (ii) Incorporated or fabricated by the person into any project described in section 42-5075, subsection 0.
      (iii) Used in environmental response or remediation activities under section 42-5075, subsection B, paragraph 6.
   (b) A person that is not subject to tax under section 42-5075 and that has been provided a copy of a certificate under section 42-5009, subsection L, if the property so sold is incorporated or fabricated by the person into the real property, structure, project, development or improvement described in the certificate.

28. The sale of a motor vehicle to:
   (a) a nonresident of this state if the purchaser's state of residence does not allow a corresponding use tax exemption to the tax imposed by article 1 of this chapter and if the nonresident has secured a special ninety day nonresident registration permit for the vehicle as prescribed by sections 28-2154 and 28-2154.01.
   (b) An enrolled member of an Indian tribe who resides on the Indian reservation established for that tribe.

29. Tangible personal property purchased in this state by a nonprofit charitable organization that has qualified under section 501(c)(3) of the United States internal revenue code and that engages in and uses such property exclusively in programs for persons with mental or physical disabilities if the programs are exclusively for training, job placement, rehabilitation or testing.

30. Sales of tangible personal property by a nonprofit organization that is exempt from taxation under section 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if the organization is associated with a major league baseball team or a national touring professional golfing association and no part of the organization's net earnings inures to the benefit of any private shareholder or individual. This paragraph does not apply to an organization that is owned, managed or controlled, in whole or in part, by a major league baseball team, or its owners, officers, employees or agents, or by a major league baseball association or professional golfing association, or its owners, officers, employees or agents, unless the organization conducted or operated exhibition events in this state before January 1, 2018 that were exempt from taxation under section 42-5073.
31. Sales of commodities, as defined by title 7 United States Code section 2, that are consigned for resale in a warehouse in this state in or from which the commodity is deliverable on a contract for future delivery subject to the rules of a commodity market regulated by the United States commodity futures trading commission.

32. Sales of tangible personal property by a nonprofit organization that is exempt from taxation under section 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7) or 501(c)(8) of the internal revenue code if the organization sponsors or operates a rodeo featuring primarily farm and ranch animals and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

33. Sales of propagative materials to persons who use those items to commercially produce agricultural, horticultural, viticultural or floricultural crops in this state. For the purposes of this paragraph, "propagative materials":
   (a) Includes seeds, seedlings, roots, bulbs, liners, transplants, cuttings, soil and plant additives, agricultural minerals, auxiliary soil and plant substances, micronutrients, fertilizers, insecticides, herbicides, fungicides, soil fumigants, desiccants, rodenticides, adjuvants, plant nutrients and plant growth regulators.
   (b) Except for use in commercially producing industrial hemp as defined in section 3-311, does not include any propagative materials used in producing any part, including seeds, of any plant of the genus cannabis.

34. Machinery, equipment, technology or related supplies that are only useful to assist a person with a physical disability as defined in section 46-191 or a person who has a developmental disability as defined in section 36-551 or has a head injury as defined in section 41-3201 to be more independent and functional.

35. Sales of natural gas or liquefied petroleum gas used to propel a motor vehicle.

36. Paper machine clothing, such as forming fabrics and dryer felts, sold to a paper manufacturer and directly used or consumed in paper manufacturing.

37. Coal, petroleum, coke, natural gas, virgin fuel oil and electricity sold to a qualified environmental technology manufacturer, producer or processor as defined in section 41-1514.02 and directly used or consumed in the generation of power or energy solely for environmental technology manufacturing, producing or environmental protection. This paragraph shall apply for twenty full consecutive calendar or fiscal years from the date the first paper manufacturing machine is placed in service. In the case of an environmental technology manufacturer, producer or processor that does not manufacture paper, the time period shall begin with the date the first manufacturing, processing or production equipment is placed in service.

38. Sales of liquid, solid or gaseous chemicals used in manufacturing, processing, fabricating, mining, refining, metallurgical operations, research and development and, beginning on January 1, 1999, printing, if using or consuming the chemicals, alone or as part of an
integrated system of chemicals, involves direct contact with the materials from which the product is produced for the purpose of causing or permitting ALLOWING a chemical or physical change to occur in the materials as part of the production process. This paragraph does not include chemicals that are used or consumed in activities such as packaging, storage or transportation but does not affect any deduction for such chemicals that is otherwise provided by this section. For the purposes of this paragraph, "printing" means a commercial printing operation and includes job printing, engraving, embossing, copying and bookbinding.

39. Through December 31, 1994, personal property liquidation transactions, conducted by a personal property liquidator. From and after December 31, 1994, personal property liquidation transactions shall be taxable under this section provided that nothing in this subsection shall be construed to authorize the taxation of casual activities or transactions under this chapter. For the purposes of this paragraph:

(a) "Personal property liquidation transaction" means a sale of personal property made by a personal property liquidator acting solely on behalf of the owner of the personal property sold at the dwelling of the owner or on the death of any owner, on behalf of the surviving spouse, if any, any devisee or heir or the personal representative of the estate of the deceased, if one has been appointed.

(b) "Personal property liquidator" means a person who is retained to conduct a sale in a personal property liquidation transaction.

40. Sales of food, drink and condiment for consumption within the premises of any prison, jail or other institution under the jurisdiction of the state department of corrections, the department of public safety, the department of juvenile corrections or a county sheriff.

41. A motor vehicle and any repair and replacement parts and tangible personal property becoming a part of such motor vehicle sold to a motor carrier WHO THAT is subject to a fee prescribed in title 28, chapter 16, article 4 and WHO THAT is engaged in the business of leasing or renting such property.

42. Sales of:

(a) Livestock and poultry to persons engaging in the businesses of farming, ranching or producing livestock or poultry.

(b) Livestock and poultry feed, salts, vitamins and other additives for livestock or poultry consumption that are sold to persons for use or consumption by their own livestock or poultry, for use or consumption in the businesses of farming, ranching and producing or feeding livestock, poultry, or livestock or poultry products or for use or consumption in noncommercial boarding of livestock. For the purposes of this paragraph, "poultry" includes ratites.

43. Sales of implants used as growth promotants and injectable medicines, not already exempt under paragraph 8 of this subsection, for livestock or poultry owned by or in possession of persons WHO THAT are engaged in producing livestock, poultry, or livestock or poultry products or WHO THAT are engaged in feeding livestock or poultry
commercially. For the purposes of this paragraph, "poultry" includes ratites.

44. Sales of motor vehicles at auction to nonresidents of this state for use outside this state if the vehicles are shipped or delivered out of this state, regardless of where title to the motor vehicles passes or its free on board point.

45. Tangible personal property sold to a person engaged in business and subject to tax under the transient lodging classification if the tangible personal property is a personal hygiene item or articles used by human beings for food, drink or condiment, except alcoholic beverages, that are furnished without additional charge to and intended to be consumed by the transient during the transient's occupancy.

46. Sales of alternative fuel, as defined in section 1-215, to a used oil fuel burner who has received a permit to burn used oil or used oil fuel under section 49-426 or 49-480.

47. Sales of materials that are purchased by or for publicly funded libraries[,] including school district libraries, charter school libraries, community college libraries, state university libraries or federal, state, county or municipal libraries[,] for use by the public as follows:
   (a) Printed or photographic materials, beginning August 7, 1985.
   (b) Electronic or digital media materials, beginning July 17, 1994.

48. Tangible personal property sold to a commercial airline and consisting of food, beverages and condiments and accessories used for serving the food and beverages, if those items are to be provided without additional charge to passengers for consumption in flight. For the purposes of this paragraph, "commercial airline" means a person holding a federal certificate of public convenience and necessity or foreign air carrier permit for air transportation to transport persons, property or United States mail in intrastate, interstate or foreign commerce.

49. Sales of alternative fuel vehicles if the vehicle was manufactured as a diesel fuel vehicle and converted to operate on alternative fuel and equipment that is installed in a conventional diesel fuel motor vehicle to convert the vehicle to operate on an alternative fuel, as defined in section 1-215.

50. Sales of any spirituous, vinous or malt liquor by a person that is licensed in this state as a wholesaler by the department of liquor licenses and control pursuant to title 4, chapter 2, article 1.

51. Sales of tangible personal property to be incorporated or installed as part of environmental response or remediation activities under section 42-5075, subsection 8, paragraph 6.

52. Sales of tangible personal property by a nonprofit organization that is exempt from taxation under section 501(c)(6) of the internal revenue code if the organization produces, organizes or promotes cultural or civic related festivals or events and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

53. Application services that are designed to assess or test student learning or to promote curriculum design or enhancement purchased
by or for any school district, charter school, community college or state university. For the purposes of this paragraph:

(a) "Application services" means software applications provided remotely using hypertext transfer protocol or another network protocol.
(b) "Curriculum design or enhancement" means planning, implementing or reporting on courses of study, lessons, assignments or other learning activities.

54. Sales of motor vehicle fuel and use fuel to a qualified business under section 41-1516 for off-road use in harvesting, processing or transporting qualifying forest products removed from qualifying projects as defined in section 41-1516.

55. Sales of repair parts installed in equipment used directly by a qualified business under section 41-1516 in harvesting, processing or transporting qualifying forest products removed from qualifying projects as defined in section 41-1516.

56. Sales or other transfers of renewable energy credits or any other unit created to track energy derived from renewable energy resources. For the purposes of this paragraph, "renewable energy credit" means a unit created administratively by the corporation commission or governing body of a public power utility to track kilowatt hours of electricity derived from a renewable energy resource or the kilowatt hour equivalent of conventional energy resources displaced by distributed renewable energy resources.

57. Computer data center equipment sold to the owner, operator or qualified colocation tenant of a computer data center that is certified by the Arizona commerce authority under section 41-1519 or an authorized agent of the owner, operator or qualified colocation tenant during the qualification period for use in the qualified computer data center. For the purposes of this paragraph, "computer data center", "computer data center equipment", "qualification period" and "qualified colocation tenant" have the same meanings prescribed in section 41-1519.

58. 57. Orthodontic devices dispensed by a dental professional who is licensed under title 32, chapter 11 to a patient as part of the practice of dentistry.

59. 58. Sales of tangible personal property incorporated or fabricated into a project described in section 42-5075, subsection 0, that is located within the exterior boundaries of an Indian reservation for which the owner, as defined in section 42-5075, of the project is an Indian tribe or an affiliated Indian. For the purposes of this paragraph:

(a) "Affiliated Indian" means an individual Native American Indian who is duly registered on the tribal rolls of the Indian tribe for whose benefit the Indian reservation was established.
(b) "Indian reservation" means all lands that are within the limits of areas set aside by the United States for the exclusive use and occupancy of an Indian tribe by treaty, law or executive order and that are recognized as Indian reservations by the United States department of the interior.
(c) "Indian tribe" means any organized nation, tribe, band or community that is recognized as an Indian tribe by the United States
department of the interior and includes any entity formed under the laws of the Indian tribe.

60. Sales of works of fine art, as defined in section 44-1771, at an art auction or gallery in this state to nonresidents of this state for use outside this state if the vendor ships or delivers the work of fine art to a destination outside this state.

61. Sales of tangible personal property by a marketplace seller that are facilitated by a marketplace facilitator in which the marketplace facilitator has remitted or will remit the applicable tax to the department pursuant to section 42-5014.

B. In addition to the deductions from the tax base prescribed by subsection A of this section, the gross proceeds of sales or gross income derived from sales of the following categories of tangible personal property shall be deducted from the tax base:

1. Machinery, or equipment, used directly in manufacturing, processing, fabricating, job printing, refining or metallurgical operations. The terms "manufacturing", "processing", "fabricating", "job printing", "refining" and "metallurgical" as used in this paragraph refer to and include those operations commonly understood within their ordinary meaning. "Metallurgical operations" includes leaching, milling, precipitating, smelting and refining.

2. Mining machinery, or equipment, used directly in the process of extracting ores or minerals from the earth for commercial purposes, including equipment required to prepare the materials for extraction and handling, loading or transporting such extracted material to the surface. "Mining" includes underground, surface and open pit operations for extracting ores and minerals.

3. Tangible personal property sold to persons engaged in business classified under the telecommunications classification, including a person representing or working on behalf of such a person in a manner described in section 42-5075, subsection 0, and consisting of central office switching equipment, switchboards, private branch exchange equipment, microwave radio equipment and carrier equipment including optical fiber, coaxial cable and other transmission media that are components of carrier systems.

4. Machinery, equipment or transmission lines used directly in producing or transmitting electrical power, but not including distribution. Transformers and control equipment used at transmission substation sites constitute equipment used in producing or transmitting electrical power.

5. MACHINERY AND EQUIPMENT USED DIRECTLY FOR ENERGY STORAGE FOR LATER ELECTRICAL USE. FOR THE PURPOSES OF THIS PARAGRAPH:

(a) "ELECTRIC UTILITY SCALE" MEANS A PERSON THAT IS ENGAGED IN A BUSINESS ACTIVITY DESCRIBED IN SECTION 42-5063, SUBSECTION A OR SUCH PERSON'S EQUIPMENT OR WHOLESALE ELECTRICITY SUPPLIERS.

(b) "ENERGY STORAGE" MEANS COMMERCIALLY AVAILABLE TECHNOLOGY FOR ELECTRIC UTILITY SCALE THAT IS CAPABLE OF ABSORBING ENERGY, STORING ENERGY FOR A PERIOD OF TIME AND THEREAFTER DISPATCHING THE ENERGY AND THAT USES MECHANICAL, CHEMICAL OR THERMAL PROCESSES TO STORE ENERGY.
(c) "MACHINERY AND EQUIPMENT USED DIRECTLY" MEANS ALL MACHINERY AND EQUIPMENT THAT ARE USED FOR ELECTRIC ENERGY STORAGE FROM THE POINT OF RECEIPT OF SUCH ENERGY IN ORDER TO FACILITATE STORAGE OF THE ELECTRIC ENERGY TO THE POINT WHERE THE ELECTRIC ENERGY IS RELEASED.

6. Neat animals, horses, asses, sheep, ratites, swine or goats used or to be used as breeding or production stock, including sales of breedings or ownership shares in such animals used for breeding or production.

7. Pipes or valves four inches in diameter or larger used to transport oil, natural gas, artificial gas, water or coal slurry, including compressor units, regulators, machinery and equipment, fittings, seals and any other part that is used in operating the pipes or valves.

8. Aircraft, navigational and communication instruments and other accessories and related equipment sold to:

(a) A person:

(i) Holding, or exempted by federal law from obtaining, a federal certificate of public convenience and necessity for use as, in conjunction with or becoming part of an aircraft to be used to transport persons for hire in intrastate, interstate or foreign commerce.

(ii) That is certificated or licensed under federal aviation administration regulations (14 Code of Federal Regulations part 121 or 135) as a scheduled or unscheduled carrier of persons for hire for use as or in conjunction with or becoming part of an aircraft to be used to transport persons for hire in intrastate, interstate or foreign commerce.

(iii) Holding a foreign air carrier permit for air transportation for use as or in conjunction with or becoming a part of aircraft to be used to transport persons, property or United States mail in intrastate, interstate or foreign commerce.

(iv) Operating an aircraft to transport persons in any manner for compensation or hire, or for use in a fractional ownership program that meets the requirements of federal aviation administration regulations (14 Code of Federal Regulations part 91, subpart K), including as an air carrier, a foreign air carrier or a commercial operator or under a restricted category, within the meaning of 14 Code of Federal Regulations, regardless of whether the operation or aircraft is regulated or certified under part 91, 119, 121, 133, 135, 136 or 137, or another part of 14 Code of Federal Regulations.

(v) That will lease or otherwise transfer operational control, within the meaning of federal aviation administration operations specification A008, or its successor, of the aircraft, instruments or accessories to one or more persons described in item (i), (ii), (iii) or (iv) of this subdivision, subject to section 42-5009, subsection 4.

(b) Any foreign government.

(c) Persons who are not residents of this state and who will not use such property in this state other than in removing such property from this state. This subdivision also applies to corporations that are not incorporated in this state, regardless of maintaining a place of business in this state, if the principal corporate office is located
outside this state and the property will not be used in this state other than in removing the property from this state.

8-9. Machinery, tools, equipment and related supplies used or consumed directly in repairing, remodeling or maintaining aircraft, aircraft engines or aircraft component parts by or on behalf of a certificated or licensed carrier of persons or property.

9-10. Railroad rolling stock, rails, ties and signal control equipment used directly to transport persons or property.

10. Machinery or equipment used directly to drill for oil or gas or used directly in the process of extracting oil or gas from the earth for commercial purposes.

11. Buses or other urban mass transit vehicles that are used directly to transport persons or property for hire or pursuant to a governmentally adopted and controlled urban mass transportation program and that are sold to bus companies holding a federal certificate of convenience and necessity or operated by any city, town or other governmental entity or by any person contracting with such governmental entity as part of a governmentally adopted and controlled program to provide urban mass transportation.


13. New machinery and equipment consisting of agricultural aircraft, tractors, tractor-drawn implements, self-powered implements, machinery and equipment necessary for extracting milk, and machinery and equipment necessary for cooling milk and livestock, and drip irrigation lines not already exempt under paragraph 6-7 of this subsection and that are used for commercial production of agricultural, horticultural, viticultural and floricultural crops and products in this state. For the purposes of this paragraph:

(a) "New machinery and equipment" means machinery and equipment that have never been sold at retail except pursuant to leases or rentals that do not total two years or more.

(b) "Self-powered implements" includes machinery and equipment that are electric-powered.

14. Machinery or equipment used in research and development. For the purposes of this paragraph, "research and development" means basic and applied research in the sciences and engineering, and designing, developing or testing prototypes, processes or new products, including research and development of computer software that is embedded in or an integral part of the prototype or new product or that is required for machinery or equipment otherwise exempt under this section to function effectively. Research and development do not include manufacturing quality control, routine consumer product testing, market research, sales promotion, sales service, research in social sciences or psychology, computer software research that is not included in the definition of research and development, or other nontechnological activities or technical services.

15. Tangible personal property that is used by either of the following to receive, store, convert, produce, generate, decode, encode, control or transmit telecommunications information:
(a) Any direct broadcast satellite television or data transmission service that operates pursuant to 47 Code of Federal Regulations part 25.

(b) Any satellite television or data transmission facility, if both of the following conditions are met:

(i) Over two-thirds of the transmissions, measured in megabytes, transmitted by the facility during the test period were transmitted to or on behalf of one or more direct broadcast satellite television or data transmission services that operate pursuant to 47 Code of Federal Regulations part 25.

(ii) Over two-thirds of the transmissions, measured in megabytes, transmitted by or on behalf of those direct broadcast television or data transmission services during the test period were transmitted by the facility to or on behalf of those services. For the purposes of subdivision (b) of this paragraph, "test period" means the three hundred sixty-five day period beginning on the later of the date on which the tangible personal property is purchased or the date on which the direct broadcast satellite television or data transmission service first transmits information to its customers.

Ch. 417 17. Clean rooms that are used for manufacturing, processing, fabrication or research and development, as defined in paragraph 44 of this subsection, of semiconductor products. For the purposes of this paragraph, "clean room" means all property that comprises or creates an environment where humidity, temperature, particulate matter and contamination are precisely controlled within specified parameters, without regard to whether the property is actually contained within that environment or whether any of the property is affixed to or incorporated into real property. Clean room:

(a) Includes the integrated systems, fixtures, piping, movable partitions, lighting and all property that is necessary or adapted to reduce contamination or to control airflow, temperature, humidity, chemical purity or other environmental conditions or manufacturing tolerances, as well as the production machinery and equipment operating in conjunction with the clean room environment.

(b) Does not include the building or other permanent, nonremovable component of the building that houses the clean room environment.

Chs. 266, 417 and 443

18. Machinery and equipment used directly in the feeding of poultry, the environmental control of ENVIRONMENTALLY CONTROLLING housing for poultry, the movement of MOVING eggs within a production and packaging facility or the sorting or cooling of eggs. This exemption does not apply to vehicles used for transporting eggs.

Ch. 412

19. Machinery or equipment, including related structural components AND CONTAINMENT STRUCTURES, that is employed in connection with manufacturing, processing, fabricating, job printing, reining, mining, natural gas pipelines, metallurgical operations, telecommunications, producing or transmitting electricity or research and development and that is used directly to meet or exceed rules or regulations adopted by the federal energy regulatory commission, the United States environmental protection agency, the United States nuclear
regulatory commission, the Arizona department of environmental quality or a political subdivision of this state to prevent, monitor, control or reduce land, water or air pollution.

20. Machinery and equipment that are sold to a person engaged in the [commercial] production of COMMERCIALLY PRODUCING livestock, livestock products or agricultural, horticultural, viticultural or floricultural crops or products in this state, including a person representing or working on behalf of such a person in a manner described in section 42-5075, subsection 0, if the machinery and equipment are used directly and primarily to prevent, monitor, control or reduce air, water or land pollution.

21. Machinery or equipment that enables a television station to originate and broadcast or to receive and broadcast digital television signals and that was purchased to facilitate compliance with the telecommunications act of 1996 (P.L. 104-104: 110 Stat. 56; 47 United States Code section 330) and the federal communications commission order issued April 21, 1997 (47 Code of Federal Regulations part 73). This paragraph does not exempt any of the following:

(a) Repair or replacement parts purchased for the machinery or equipment described in this paragraph.

(b) Machinery or equipment purchased to replace machinery or equipment for which an exemption was previously claimed and taken under this paragraph.

(c) Any machinery or equipment purchased after the television station has ceased analog broadcasting, or purchased after November 1, 2009, whichever occurs first.

22. Qualifying equipment that is purchased from and after June 30, 2004 through June 30, 2024 by a qualified business under section 41-1516 for harvesting or processing qualifying forest products removed from qualifying projects as defined in section 41-1516. To qualify for this deduction, the qualified business at the time of purchase must present its certification approved by the department.

23. COMPUTER DATA CENTER EQUIPMENT SOLD TO THE OWNER, OPERATOR OR QUALIFIED COLOCATION TENANT OF A COMPUTER DATA CENTER THAT IS CERTIFIED BY THE ARIZONA COMMERCE AUTHORITY UNDER SECTION 41-1519 OR AN AUTHORIZED AGENT OF THE OWNER, OPERATOR OR QUALIFIED COLOCATION TENANT DURING THE QUALIFICATION PERIOD FOR USE IN THE QUALIFIED COMPUTER DATA CENTER. FOR THE PURPOSES OF THIS PARAGRAPH, "COMPUTER DATA CENTER", "COMPUTER DATA CENTER EQUIPMENT", "QUALIFICATION PERIOD" AND "QUALIFIED COLOCATION TENANT" HAVE THE SAME MEANINGS PRESCRIBED IN SECTION 41-1519.

C. The deductions provided by subsection B of this section do not include sales of:

1. Expendable materials. For the purposes of this paragraph, expendable materials do not include any of the categories of tangible personal property specified in subsection B of this section regardless of the cost or useful life of that property.

2. Janitorial equipment and hand tools.

3. Office equipment, furniture and supplies.
4. Tangible personal property used in selling or distributing activities, other than the telecommunications transmissions described in subsection B, paragraph ¶ 16 of this section.

5. Motor vehicles required to be licensed by this state, except buses or other urban mass transit vehicles specifically exempted pursuant to subsection B, paragraph ¶ 12 of this section, without regard to the use of such motor vehicles.

6. Shops, buildings, docks, depots and all other materials of whatever kind or character not specifically included as exempt.

7. Motors and pumps used in drip irrigation systems.

8. Machinery and equipment or other tangible personal property used by a contractor in the performance of PERFORMING a contract.

D. In addition to the deductions from the tax base prescribed by subsection A of this section, there shall be deducted from the tax base the gross proceeds of sales or gross income derived from sales of machinery, equipment, materials and other tangible personal property used directly and predominantly to construct a qualified environmental technology manufacturing, producing or processing facility as described in section 41-1514.02. This subsection applies for ten full consecutive calendar or fiscal years after the start of initial construction.

E. In computing the tax base, gross proceeds of sales or gross income from retail sales of heavy trucks and trailers does not include any amount attributable to federal excise taxes imposed by 26 United States Code section 4051.

F. If a person is engaged in an occupation or business to which subsection A of this section applies, the person's books shall be kept so as to show separately the gross proceeds of sales of tangible personal property and the gross income from sales of services, and if not so kept the tax shall be imposed on the total of the person's gross proceeds of sales of tangible personal property and gross income from services.

G. If a person is engaged in the business of selling tangible personal property at both wholesale and retail, the tax under this section applies only to the gross proceeds of the sales made other than at wholesale if the person's books are kept so as to show separately the gross proceeds of sales of each class, and if the books are not so kept, the tax under this section applies to the gross proceeds of every sale so made.

H. A person who engages in manufacturing, bailing, crating, boxing, barreling, canning, bottling, sacking, preserving, processing or otherwise preparing for sale or commercial use any livestock, agricultural or horticultural product or any other product, article, substance or commodity and who sells the product of such business at retail in this state is deemed, as to such sales, to be engaged in business classified under the retail classification. This subsection does not apply to:

1. Agricultural producers who are owners, proprietors or tenants of agricultural lands, orchards, farms or gardens where agricultural products are grown, raised or prepared for market and who are marketing their own agricultural products.

2. Businesses classified under the:
(a) Transporting classification.
(b) Utilities classification.
(c) Telecommunications classification.
(d) Pipeline classification.
(e) Private car line classification.
(f) Publication classification.
(g) Job printing classification.
(h) Prime contracting classification.
(i) Restaurant classification.

I. The gross proceeds of sales or gross income derived from the following shall be deducted from the tax base for the retail classification:
  1. Sales made directly to the United States government or its departments or agencies by a manufacturer, modifier, assembler or repairer.
  2. Sales made directly to a manufacturer, modifier, assembler or repairer if such sales are of any ingredient or component part of products sold directly to the United States government or its departments or agencies by the manufacturer, modifier, assembler or repairer.
  3. Overhead materials or other tangible personal property that is used in performing a contract between the United States government and a manufacturer, modifier, assembler or repairer, including property used in performing a subcontract with a government contractor who is a manufacturer, modifier, assembler or repairer, to which title passes to the government under the terms of the contract or subcontract.
  4. Sales of overhead materials or other tangible personal property to a manufacturer, modifier, assembler or repairer if the gross proceeds of sales or gross income derived from the property by the manufacturer, modifier, assembler or repairer will be exempt under paragraph 3 of this subsection.
  J. There shall be deducted from the tax base fifty percent of the gross proceeds or gross income from any sale of tangible personal property made directly to the United States government or its departments or agencies that is not deducted under subsection I of this section.
  K. The department shall require every person claiming a deduction provided by subsection I or J of this section to file on forms prescribed by the department at such times as the department directs a sworn statement disclosing the name of the purchaser and the exact amount of sales on which the exclusion or deduction is claimed.
  L. In computing the tax base, gross proceeds of sales or gross income does not include:
     1. A manufacturer's cash rebate on the sales price of a motor vehicle if the buyer assigns the buyer's right in the rebate to the retailer.
     2. The waste tire disposal fee imposed pursuant to section 44-1302.
  M. There shall be deducted from the tax base the amount received from sales of solar energy devices. The retailer shall register with the department as a solar energy retailer. By registering, the retailer
acknowledges that it will make its books and records relating to sales of solar energy devices available to the department for examination.

N. In computing the tax base in the case of the sale or transfer of wireless telecommunications equipment as an inducement to a customer to enter into or continue a contract for telecommunications services that are taxable under section 42-5064, gross proceeds of sales or gross income does not include any sales commissions or other compensation received by the retailer as a result of the customer entering into or continuing a contract for the telecommunications services.

O. For the purposes of this section, a sale of wireless telecommunications equipment to a person who holds the equipment for sale or transfer to a customer as an inducement to enter into or continue a contract for telecommunications services that are taxable under section 42-5064 is considered to be a sale for resale in the regular course of business.

P. Retail sales of prepaid calling cards or prepaid authorization numbers for telecommunications services, including sales of reauthorization of a prepaid card or authorization number, are subject to tax under this section.

Q. For the purposes of this section, the diversion of gas from a pipeline by a person engaged in the business of:
   1. Operating a natural or artificial gas pipeline, for the sole purpose of fueling compressor equipment to pressurize the pipeline, is not a sale of the gas to the operator of the pipeline.
   2. Converting natural gas into liquefied natural gas, for the sole purpose of fueling compressor equipment used in the conversion process, is not a sale of gas to the operator of the compressor equipment.

R. For the purposes of this section, the transfer of title or possession of coal from an owner or operator of a power plant to a person in the business of refining coal is not a sale of coal if both of the following apply:
   1. The transfer of title or possession of the coal is for the purpose of refining the coal.
   2. The title or possession of the coal is transferred back to the owner or operator of the power plant after completion of the coal refining process. For the purposes of this paragraph, "coal refining process" means the application of a coal additive system that aids in the reduction of power plant emissions during the combustion of coal and the treatment of flue gas.

S. If a seller is entitled to a deduction pursuant to subsection B, paragraph 75 16, subdivision (b) of this section, the department may require the purchaser to establish that the requirements of subsection B, paragraph 75 16, subdivision (b) of this section have been satisfied. If the purchaser cannot establish that the requirements of subsection B, paragraph 75 16, subdivision (b) of this section have been satisfied, the purchaser is liable in an amount equal to any tax, penalty and interest that the seller would have been required to pay under article 1 of this chapter if the seller had not made a deduction pursuant to subsection B, paragraph 75 16, subdivision (b) of this section. Payment of the amount under this subsection exempts the purchaser from
liability for any tax imposed under article 4 of this chapter and related to the tangible personal property purchased. The amount shall be treated as transaction privilege tax to the purchaser and as tax revenues collected from the seller to designate the distribution base pursuant to section 42-5029.

T. For the purposes of section 42-5032.01, the department shall separately account for revenues collected under the retail classification from businesses selling tangible personal property at retail:

1. On the premises of a multipurpose facility that is owned, leased or operated by the tourism and sports authority pursuant to title 5, chapter 8.

2. At professional football contests that are held in a stadium located on the campus of an institution under the jurisdiction of the Arizona board of regents.

U. In computing the tax base for the sale of a motor vehicle to a nonresident of this state, if the purchaser's state of residence allows a corresponding use tax exemption to the tax imposed by article 1 of this chapter and the rate of the tax in the purchaser's state of residence is lower than the rate prescribed in article 1 of this chapter or if the purchaser's state of residence does not impose an excise tax, and the nonresident has secured a special ninety day nonresident registration permit for the vehicle as prescribed by sections 28-2154 and 28-2154.01, there shall be deducted from the tax base a portion of the gross proceeds or gross income from the sale so that the amount of transaction privilege tax that is paid in this state is equal to the excise tax that is imposed by the purchaser's state of residence on the nonexempt sale or use of the motor vehicle.

V. For the purposes of this section:

1. "Agricultural aircraft" means an aircraft that is built for agricultural use for the aerial application of pesticides or fertilizer or for aerial seeding.

2. "Aircraft" includes:

   (a) An airplane flight simulator that is approved by the federal aviation administration for use as a phase II or higher flight simulator under appendix H, 14 Code of Federal Regulations part 121.

   (b) Tangible personal property that is permanently affixed or attached as a component part of an aircraft that is owned or operated by a certificated or licensed carrier of persons or property.

3. "Other accessories and related equipment" includes aircraft accessories and equipment such as ground service equipment that physically contact aircraft at some point during the overall carrier operation.

4. "Selling at retail" means a sale for any purpose other than for resale in the regular course of business in the form of tangible personal property, but transfer of possession, lease and rental as used in the definition of sale mean only such transactions as are found on investigation to be in lieu of sales as defined without the words lease or rental.

W. For the purposes of subsection I of this section:
1. "Assembler" means a person who unites or combines products, wares or articles of manufacture so as to produce a change in form or substance without changing or altering the component parts.

2. "Manufacturer" means a person who is principally engaged in the fabrication, production FABRICATING, PRODUCING or manufacture of MANUFACTURING products, wares or articles for use from raw or prepared materials, imparting to those materials new forms, qualities, properties and combinations.

3. "Modifier" means a person who reworks, changes or adds to products, wares or articles of manufacture.

4. "Overhead materials" means tangible personal property, the gross proceeds of sales or gross income derived from that would otherwise be included in the retail classification, and that are used or consumed in the performance of PERFORMING a contract, the cost of which is charged to an overhead expense account and allocated to various contracts based on generally accepted accounting principles and consistent with government contract accounting standards.

5. "Repairer" means a person who restores or renews products, wares or articles of manufacture.

6. "Subcontract" means an agreement between a contractor and any person who is not an employee of the contractor for furnishing of supplies or services that, in whole or in part, are necessary to the performance of PERFORM one or more government contracts, or under which any portion of the contractor's obligation under one or more government contracts is performed, undertaken or assumed and that includes provisions causing title to overhead materials or other tangible personal property used in the performance of PERFORMING the subcontract to pass to the government or that includes provisions incorporating such title passing clauses in a government contract into the subcontract.
EXPLANATION OF BLEND
SECTION 42-5061 (as amended by Laws 2019, Ch. 273, section 8 and Ch. 288, section 2)

Laws 2021, Chapters 266, 412, 417 and 443

Laws 2021, Ch. 266, section 4          Conditionally Effective
  (Retroactive to September 13, 2013)

Laws 2021, Ch. 412, section 8          Conditionally Effective
  (Retroactive to January 1, 2016)

Laws 2021, Ch. 417, section 5          Conditionally Effective

Laws 2021, Ch. 443, section 3          Conditionally Effective

Explanation

Since these four enactments are compatible, the Laws 2021, Ch. 266, Ch. 412, Ch. 417 and Ch. 443 text changes to section 42-5061, as amended by Laws 2019, Ch. 273, section 8 and Ch. 288, section 2, are blended in the form shown on the following pages.
42-5061. Retail classification; definitions

A. The retail classification is comprised of the business of selling tangible personal property at retail. The tax base for the retail classification is the gross proceeds of sales or gross income derived from the business. The tax imposed on the retail classification does not apply to the gross proceeds of sales or gross income from:

1. Professional or personal service occupations or businesses that involve sales or transfers of tangible personal property only as inconsequential elements.

2. Services rendered in addition to selling tangible personal property at retail.

3. Sales of warranty or service contracts. The storage, use or consumption of tangible personal property provided under the conditions of such contracts is subject to tax under section 42-5156.

4. Sales of tangible personal property by any nonprofit organization organized and operated exclusively for charitable purposes and recognized by the United States internal revenue service under section 501(c)(3) of the internal revenue code.

5. Sales to persons engaged in business classified under the restaurant classification of articles used by human beings for food, drink or condiment, whether simple, mixed or compounded.

6. Business activity that is properly included in any other business classification that is taxable under this article.

7. The sale of stocks and bonds.

8. Drugs and medical oxygen, including delivery hose, mask or tent, regulator and tank, on the prescription of IF PRESCRIBED BY a member of the medical, dental or veterinarian profession who is licensed by law to administer such substances.

9. Prosthetic appliances as defined in section 23-501 and as prescribed or recommended by a health professional who is licensed pursuant to title 32, chapter 7, 8, 11, 13, 14, 15, 16, 17 or 29.

10. Insulin, insulin syringes and glucose test strips.

11. Prescription eyeglasses or contact lenses.

12. Hearing aids as defined in section 36-1901.

13. Durable medical equipment that has a centers for medicare and medicaid services common procedure code, is designated reimbursable by medicare, is prescribed by a person who is licensed under title 32, chapter 7, 8, 13, 14, 15, 17 or 29, can withstand repeated use, is primarily and customarily used to serve a medical purpose, is generally not useful to a person in the absence of illness or injury and is appropriate for use in the home.
14. Sales of motor vehicles to nonresidents of this state for use outside this state if the motor vehicle dealer ships or delivers the motor vehicle to a destination out of this state.

15. Food, as provided in and subject to the conditions of article 3 of this chapter and sections 42-5074 and 42-6017.

16. Items purchased with United States department of agriculture coupons issued under the supplemental nutrition assistance program pursuant to the food and nutrition act of 2008 (P.L. 88-525; 78 Stat. 703; 7 United States Code sections 2011 through 2036b) by the United States department of agriculture food and nutrition service or food instruments issued under section 17 of the child nutrition act (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; P.L. 111-296; 42 United States Code section 1786).

17. Textbooks by any bookstore that are required by any state university or community college.

18. Food and drink to a person that is engaged in a business that is classified under the restaurant classification and that provides such food and drink without monetary charge to its employees for their own consumption on the premises during the employees' hours of employment.

19. Articles of food, drink or condiment and accessory tangible personal property to a school district or charter school if such articles and accessory tangible personal property are to be prepared and served to persons for consumption on the premises of a public school within the district or on the premises of the charter school during school hours.

20. Lottery tickets or shares pursuant to title 5, chapter 5.1, article 1.

21. The sale of cash equivalents and the sale of precious metal bullion and monetized bullion to the ultimate consumer, but the sale of coins or other forms of money for manufacture into jewelry or works of art is subject to the tax and the gross proceeds of sales or gross income derived from the redemption of any cash equivalent by the holder as a means of payment for goods or services that are taxable under this article is subject to the tax. For the purposes of this paragraph:

(a) "Cash equivalents" means items or intangibles, whether or not negotiable, that are sold to one or more persons, through which a value denominated in money is purchased in advance and may be redeemed in full or in part for tangible personal property, intangibles or services. Cash equivalents include gift cards, stored value cards, gift certificates, vouchers, traveler's checks, money orders or other instruments, orders or electronic mechanisms, such as an electronic code, personal identification number or digital payment mechanism, or any other prepaid intangible right to acquire tangible personal property, intangibles or services in the future, whether from the seller of the cash equivalent or from another person. Cash equivalents do not include either of the following:

(i) Items or intangibles that are sold to one or more persons, through which a value is not denominated in money.

(ii) Prepaid calling cards or prepaid authorization numbers for telecommunications services made taxable by subsection P of this section.

(b) "Monetized bullion" means coins and other forms of money that are manufactured from gold, silver or other metals and that have been or
are used as a medium of exchange in this or another state, the United States or a foreign nation.

(c) "Precious metal bullion" means precious metal, including gold, silver, platinum, rhodium and palladium, that has been smelted or refined so that its value depends on its contents and not on its form.

22. Motor vehicle fuel and use fuel that are subject to a tax imposed under title 28, chapter 16, article 1, sales of use fuel to a holder of a valid single trip use fuel tax permit issued under section 28-5739, sales of aviation fuel that are subject to the tax imposed under section 28-8344 and sales of jet fuel that are subject to the tax imposed under article 8 of this chapter.

23. Tangible personal property sold to a person engaged in the business of leasing or renting such property under the personal property rental classification if such property is to be leased or rented by such person.

24. Tangible personal property sold in interstate or foreign commerce if prohibited from being so taxed by the constitution of the United States or the constitution of this state.

25. Tangible personal property sold to:
   (a) A qualifying hospital as defined in section 42-5001.
   (b) A qualifying health care organization as defined in section 42-5001 if the tangible personal property is used by the organization solely to provide health and medical related educational and charitable services.
   (c) A qualifying health care organization as defined in section 42-5001 if the organization is dedicated to providing educational, therapeutic, rehabilitative and family medical education training for blind and visually impaired children and children with multiple disabilities from the time of birth to age twenty-one.
   (d) A qualifying community health center as defined in section 42-5001.
   (e) A nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code and that regularly serves meals to the needy and indigent on a continuing basis at no cost.
   (f) For taxable periods beginning from and after June 30, 2001, a nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code and that provides residential apartment housing for low-income LOW-INCOME persons over sixty-two years of age in a facility that qualifies for a federal housing subsidy, if the tangible personal property is used by the organization solely to provide residential apartment housing for low-income LOW-INCOME persons over sixty-two years of age in a facility that qualifies for a federal housing subsidy.
   (g) A qualifying health sciences educational institution as defined in section 42-5001.
   (h) Any person representing or working on behalf of another person described in subdivisions (a) through (g) of this paragraph if the tangible personal property is incorporated or fabricated into a project described in section 42-5075, subsection 0.

26. Magazines or other periodicals or other publications by this state to encourage tourist travel.

27. Tangible personal property sold to:
(a) A person that is subject to tax under this article by reason of being engaged in business classified under section 42-5075 or to a subcontractor working under the control of a person engaged in business classified under section 42-5075, if the property so sold is any of the following:

(i) Incorporated or fabricated by the person into any real property, structure, project, development or improvement as part of the business.

(ii) Incorporated or fabricated by the person into any project described in section 42-5075, subsection 0.

(iii) Used in environmental response or remediation activities under section 42-5075, subsection B, paragraph 6.

(b) A person that is not subject to tax under section 42-5075 and that has been provided a copy of a certificate under section 42-5009, subsection L, if the property so sold is incorporated or fabricated by the person into the real property, structure, project, development or improvement described in the certificate.

28. The sale of a motor vehicle to—

(a) a nonresident of this state if the purchaser's state of residence does not allow a corresponding use tax exemption to the tax imposed by article 1 of this chapter and if the nonresident has secured a special ninety day nonresident registration permit for the vehicle as prescribed by sections 28-2154 and 28-2154.01.

(b) An enrolled member of an Indian tribe who resides on the Indian reservation established for that tribe.

29. Tangible personal property purchased in this state by a nonprofit charitable organization that has qualified under section 501(c)(3) of the United States internal revenue code and that engages in and uses such property exclusively in programs for persons with mental or physical disabilities if the programs are exclusively for training, job placement, rehabilitation or testing.

30. Sales of tangible personal property by a nonprofit organization that is exempt from taxation under section 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if the organization is associated with a major league baseball team or a national touring professional golfing association and no part of the organization's net earnings inures to the benefit of any private shareholder or individual. This paragraph does not apply to an organization that is owned, managed or controlled, in whole or in part, by a major league baseball team, or its owners, officers, employees or agents, or by a major league baseball association or professional golfing association, or its owners, officers, employees or agents, unless the organization conducted or operated exhibition events in this state before January 1, 2018 that were exempt from taxation under section 42-5073.

31. Sales of commodities, as defined by title 7 United States Code section 2, that are consigned for resale in a warehouse in this state in or from which the commodity is deliverable on a contract for future delivery subject to the rules of a commodity market regulated by the United States commodity futures trading commission.

32. Sales of tangible personal property by a nonprofit organization that is exempt from taxation under section 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7) or 501(c)(8) of the internal revenue code if the organization
sponsors or operates a rodeo featuring primarily farm and ranch animals and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

33. Sales of propagative materials to persons who use those items to commercially produce agricultural, horticultural, viticultural or floricultural crops in this state. For the purposes of this paragraph, "propagative materials":

(a) Includes seeds, seedlings, roots, bulbs, liners, transplants, cuttings, soil and plant additives, agricultural minerals, auxiliary soil and plant substances, micronutrients, fertilizers, insecticides, herbicides, fungicides, soil fumigants, desiccants, rodenticides, adjuvants, plant nutrients and plant growth regulators.

(b) Except for use in commercially producing industrial hemp as defined in section 3-311, does not include any propagative materials used in producing any part, including seeds, of any plant of the genus cannabis.

34. Machinery, equipment, technology or related supplies that are only useful to assist a person with a physical disability as defined in section 46-191 or a person who has a developmental disability as defined in section 36-561 or has a head injury as defined in section 41-3201 to be more independent and functional.

35. Sales of natural gas or liquefied petroleum gas used to propel a motor vehicle.

36. Paper machine clothing, such as forming fabrics and dryer felts, sold to a paper manufacturer and directly used or consumed in paper manufacturing.

37. Petroleum, coke, natural gas, virgin fuel oil and electricity sold to a qualified environmental technology manufacturer, producer or processor as defined in section 41-1514.02 and directly used or consumed in the generation of energy solely for environmental technology manufacturing, producing or processing or environmental protection. This paragraph shall apply for twenty full consecutive calendar or fiscal years from the date the first paper manufacturing machine is placed in service. In the case of an environmental technology manufacturer, producer or processor that does not manufacture paper, the time period shall begin with the date the first manufacturing, processing or production equipment is placed in service.

38. Sales of liquid, solid or gaseous chemicals used in manufacturing, processing, fabricating, mining, refining, metallurgical operations, research and development and, beginning on January 1, 1999, printing, if using or consuming the chemicals, alone or as part of an integrated system of chemicals, involves direct contact with the materials from which the product is produced for the purpose of causing or permitting a chemical or physical change to occur in the materials as part of the production process. This paragraph does not include chemicals that are used or consumed in activities such as packaging, storage or transportation but does not affect any deduction for such chemicals that is otherwise provided by this section. For the purposes of this paragraph, "printing" means a commercial printing operation and includes job printing, engraving, embossing, copying and bookbinding.
39. Through December 31, 1994, personal property liquidation transactions, conducted by a personal property liquidator. From and after December 31, 1994, personal property liquidation transactions shall be taxable under this section provided that nothing in this subsection shall be construed to authorize the taxation of casual activities or transactions under this chapter. For the purposes of this paragraph:

(a) "Personal property liquidation transaction" means a sale of personal property made by a personal property liquidator acting solely on behalf of the owner of the personal property sold at the dwelling of the owner or on the death of any owner, on behalf of the surviving spouse, if any, any devisee or heir or the personal representative of the estate of the deceased, if one has been appointed.

(b) "Personal property liquidator" means a person who is retained to conduct a sale in a personal property liquidation transaction.

40. Sales of food, drink and condiment for consumption within the premises of any prison, jail or other institution under the jurisdiction of the state department of corrections, the department of public safety, the department of juvenile corrections or a county sheriff.

41. A motor vehicle and any repair and replacement parts and tangible personal property becoming a part of such motor vehicle sold to a motor carrier THAT is subject to a fee prescribed in title 28, chapter 16, article 4 and THAT is engaged in the business of leasing or renting such property.

42. Sales of:

(a) Livestock and poultry to persons engaging in the businesses of farming, ranching or producing livestock or poultry.

(b) Livestock and poultry feed, salts, vitamins and other additives for livestock or poultry consumption that are sold to persons for use or consumption by their own livestock or poultry, for use or consumption in the businesses of farming, ranching and producing or feeding livestock, poultry, or livestock or poultry products or for use or consumption in noncommercial boarding of livestock. For the purposes of this paragraph, "poultry" includes ratites.

43. Sales of implants used as growth promotants and injectable medicines, not already exempt under paragraph 8 of this subsection, for livestock or poultry owned by or in possession of persons THAT are engaged in producing livestock, poultry, or livestock or poultry products or THAT are engaged in feeding livestock or poultry commercially. For the purposes of this paragraph, "poultry" includes ratites.

44. Sales of motor vehicles at auction to nonresidents of this state for use outside this state if the vehicles are shipped or delivered out of this state, regardless of where title to the motor vehicles passes or its free on board point.

45. Tangible personal property sold to a person engaged in business and subject to tax under the transient lodging classification if the tangible personal property is a personal hygiene item or articles used by human beings for food, drink or condiment, except alcoholic beverages, that are furnished without additional charge to and intended to be consumed by the transient during the transient's occupancy.
46. Sales of alternative fuel, as defined in section 1-215, to a used oil fuel burner who has received a permit to burn used oil or used oil fuel under section 49-426 or 49-480.

47. Sales of materials that are purchased by or for publicly funded libraries[,] including school district libraries, charter school libraries, community college libraries, state university libraries or federal, state, county or municipal libraries[,] for use by the public as follows:
   (a) Printed or photographic materials, beginning August 7, 1985.
   (b) Electronic or digital media materials, beginning July 17, 1994.

48. Tangible personal property sold to a commercial airline and consisting of food, beverages and condiments and accessories used for serving the food and beverages, if those items are to be provided without additional charge to passengers for consumption in flight. For the purposes of this paragraph, "commercial airline" means a person holding a federal certificate of public convenience and necessity or foreign air carrier permit for air transportation to transport persons, property or United States mail in intrastate, interstate or foreign commerce.

49. Sales of alternative fuel vehicles if the vehicle was manufactured as a diesel fuel vehicle and converted to operate on alternative fuel and equipment that is installed in a conventional diesel fuel motor vehicle to convert the vehicle to operate on an alternative fuel, as defined in section 1-215.

50. Sales of any spirituous, vinous or malt liquor by a person that is licensed in this state as a wholesaler by the department of liquor licenses and control pursuant to title 4, chapter 2, article 1.

51. Sales of tangible personal property to be incorporated or installed as part of environmental response or remediation activities under section 42-5075, subsection B, paragraph 6.

52. Sales of tangible personal property by a nonprofit organization that is exempt from taxation under section 501(c)(6) of the internal revenue code if the organization produces, organizes or promotes cultural or civic related festivals or events and no part of the organization’s net earnings inures to the benefit of any private shareholder or individual.

53. Application services that are designed to assess or test student learning or to promote curriculum design or enhancement purchased by or for any school district, charter school, community college or state university. For the purposes of this paragraph:
   (a) "Application services" means software applications provided remotely using hypertext transfer protocol or another network protocol.
   (b) "Curriculum design or enhancement" means planning, implementing or reporting on courses of study, lessons, assignments or other learning activities.

54. Sales of motor vehicle fuel and use fuel to a qualified business under section 41-1516 for off-road use in harvesting, processing or transporting qualifying forest products removed from qualifying projects as defined in section 41-1516.

55. Sales of repair parts installed in equipment used directly by a qualified business under section 41-1516 in harvesting, processing or transporting qualifying forest products removed from qualifying projects as defined in section 41-1516.
56. Sales or other transfers of renewable energy credits or any other unit created to track energy derived from renewable energy resources. For the purposes of this paragraph, "renewable energy credit" means a unit created administratively by the corporation commission or governing body of a public power utility to track kilowatt hours of electricity derived from a renewable energy resource or the kilowatt hour equivalent of conventional energy resources displaced by distributed renewable energy resources.

57. Computer data center equipment sold to the owner, operator or qualified colocation tenant of a computer data center that is certified by the Arizona commerce authority under section 41-1519 or an authorized agent of the owner, operator or qualified colocation tenant during the qualification period for use in the qualified computer data center. For the purposes of this paragraph, "computer data center", "computer data center equipment", "qualification period" and "qualified colocation tenant" have the same meanings prescribed in section 41-1519.

58. Orthodontic devices dispensed by a dental professional who is licensed under title 32, chapter 11 to a patient as part of the practice of dentistry.

59. Sales of tangible personal property incorporated or fabricated into a project described in section 42-5075, subsection 0, that is located within the exterior boundaries of an Indian reservation for which the owner, as defined in section 42-5075, of the project is an Indian tribe or an affiliated Indian. For the purposes of this paragraph:

(a) "Affiliated Indian" means an individual Native American Indian who is duly registered on the tribal rolls of the Indian tribe for whose benefit the Indian reservation was established.

(b) "Indian reservation" means all lands that are within the limits of areas set aside by the United States for the exclusive use and occupancy of an Indian tribe by treaty, law or executive order and that are recognized as Indian reservations by the United States department of the interior.

(c) "Indian tribe" means any organized nation, tribe, band or community that is recognized as an Indian tribe by the United States department of the interior and includes any entity formed under the laws of the Indian tribe.

60. Sales of works of fine art, as defined in section 44-1771, at an art auction or gallery in this state to nonresidents of this state for use outside this state if the vendor ships or delivers the work of fine art to a destination outside this state.

61. Sales of tangible personal property by a marketplace seller that are facilitated by a marketplace facilitator in which the marketplace facilitator has remitted or will remit the applicable tax to the department pursuant to section 42-5014.

62. In addition to the deductions from the tax base prescribed by subsection A of this section, the gross proceeds of sales or gross income derived from sales of the following categories of tangible personal property shall be deducted from the tax base:

1. Machinery, or equipment, used directly in manufacturing, processing, fabricating, job printing, refining or metallurgical operations. The terms "manufacturing", "processing", "fabricating", "job printing",
"refining" and "metallurgical" as used in this paragraph refer to and include those operations commonly understood within their ordinary meaning. "Metallurgical operations" includes leaching, milling, precipitating, smelting and refining.

2. Mining machinery, or equipment, used directly in the process of extracting ores or minerals from the earth for commercial purposes, including equipment required to prepare the materials for extraction and handling, loading or transporting such extracted material to the surface. "Mining" includes underground, surface and open pit operations for extracting ores and minerals.

3. Tangible personal property sold to persons engaged in business classified under the telecommunications classification, including a person representing or working on behalf of such a person in a manner described in section 42-5075, subsection 0, and consisting of central office switching equipment, switchboards, private branch exchange equipment, microwave radio equipment and carrier equipment including optical fiber, coaxial cable and other transmission media that are components of carrier systems.

4. Machinery, equipment or transmission lines used directly in producing or transmitting electrical power, but not including distribution. Transformers and control equipment used at transmission substation sites constitute equipment used in producing or transmitting electrical power.

5. MACHINERY AND EQUIPMENT USED DIRECTLY FOR ENERGY STORAGE FOR LATER ELECTRICAL USE. FOR THE PURPOSES OF THIS PARAGRAPH:
   (a) "ELECTRIC UTILITY SCALE" MEANS A PERSON THAT IS ENGAGED IN A BUSINESS ACTIVITY DESCRIBED IN SECTION 42-5063, SUBSECTION A OR SUCH PERSON'S EQUIPMENT OR WHOLESALE ELECTRICITY SUPPLIERS.
   (b) "ENERGY STORAGE" MEANS commercially available technology for electric utility scale that is capable of absorbing energy, storing energy for a period of time and thereafter dispatching the energy and that uses mechanical, chemical or thermal processes to store energy.
   (c) "MACHINERY AND EQUIPMENT USED DIRECTLY" MEANS ALL MACHINERY AND EQUIPMENT THAT ARE USED FOR ELECTRIC ENERGY STORAGE FROM THE POINT OF RECEIPT OF SUCH ENERGY IN ORDER TO FACILITATE STORAGE OF THE ELECTRIC ENERGY TO THE POINT WHERE THE ELECTRIC ENERGY IS RELEASED.

6. Neat animals, horses, asses, sheep, ratites, swine or goats used or to be used as breeding or production stock, including sales of breedings or ownership shares in such animals used for breeding or production.

7. Pipes or valves four inches in diameter or larger used to transport oil, natural gas, artificial gas, water or coal slurry, including compressor units, regulators, machinery and equipment, fittings, seals and any other part that is used in operating the pipes or valves.

8. Aircraft, navigational and communication instruments and other accessories and related equipment sold to:
   (a) A person:
      (i) Holding, or exempted by federal law from obtaining, a federal certificate of public convenience and necessity for use as, in conjunction with or becoming part of an aircraft to be used to transport persons for hire in intrastate, interstate or foreign commerce.
(ii) That is certificated or licensed under federal aviation administration regulations (14 Code of Federal Regulations part 121 or 135) as a scheduled or unscheduled carrier of persons for hire for use as or in conjunction with or becoming part of an aircraft to be used to transport persons for hire in intrastate, interstate or foreign commerce.

(iii) Holding a foreign air carrier permit for air transportation for use as or in conjunction with or becoming a part of aircraft to be used to transport persons, property or United States mail in intrastate, interstate or foreign commerce.

(iv) Operating an aircraft to transport persons in any manner for compensation or hire, or for use in a fractional ownership program that meets the requirements of federal aviation administration regulations (14 Code of Federal Regulations part 91, subpart K), including as an air carrier, a foreign air carrier or a commercial operator or under a restricted category, within the meaning of 14 Code of Federal Regulations, regardless of whether the operation or aircraft is regulated or certified under part 91, 119, 121, 133, 135, 136 or 137, or another part of 14 Code of Federal Regulations.

(v) That will lease or otherwise transfer operational control, within the meaning of federal aviation administration operations specification A008, or its successor, of the aircraft, instruments or accessories to one or more persons described in item (i), (ii), (iii) or (iv) of this subdivision, subject to section 42-5009, subsection Q.

(b) Any foreign government.

(c) Persons who are not residents of this state and who will not use such property in this state other than in removing such property from this state. This subdivision also applies to corporations that are not incorporated in this state, regardless of maintaining a place of business in this state, if the principal corporate office is located outside this state and the property will not be used in this state other than in removing the property from this state.

9. Machinery, tools, equipment and related supplies used or consumed directly in repairing, remodeling or maintaining aircraft, aircraft engines or aircraft component parts by or on behalf of a certificated or licensed carrier of persons or property.

10. Railroad rolling stock, rails, ties and signal control equipment used directly to transport persons or property.

11. Machinery or equipment used directly to drill for oil or gas or used directly in the process of extracting oil or gas from the earth for commercial purposes.

12. Buses or other urban mass transit vehicles that are used directly to transport persons or property for hire or pursuant to a governmentally adopted and controlled urban mass transportation program and that are sold to bus companies holding a federal certificate of convenience and necessity or operated by any city, town or other governmental entity or by any person contracting with such governmental entity as part of a governmentally adopted and controlled program to provide urban mass transportation.

14. New machinery and equipment consisting of agricultural aircraft, tractors, tractor-drawn implements, self-powered implements, machinery and equipment necessary for extracting milk, and machinery and equipment necessary for cooling milk and livestock, and drip irrigation lines not already exempt under paragraph 6-7 of this subsection and that are used for commercial production of agricultural, horticultural, viticultural and floricultural crops and products in this state. For the purposes of this paragraph:

(a) "New machinery and equipment" means machinery and equipment that have never been sold at retail except pursuant to leases or rentals that do not total two years or more.

(b) "Self-powered implements" includes machinery and equipment that are electric-powered.

15. Machinery or equipment used in research and development. For the purposes of this paragraph, "research and development" means basic and applied research in the sciences and engineering, and designing, developing or testing prototypes, processes or new products, including research and development of computer software that is embedded in or an integral part of the prototype or new product or that is required for machinery or equipment otherwise exempt under this section to function effectively. Research and development do not include manufacturing quality control, routine consumer product testing, market research, sales promotion, sales service, research in social sciences or psychology, computer software research that is not included in the definition of research and development, or other nontechnological activities or technical services.

16. Tangible personal property that is used by either of the following to receive, store, convert, produce, generate, decode, encode, control or transmit telecommunications information:

(a) Any direct broadcast satellite television or data transmission service that operates pursuant to 47 Code of Federal Regulations part 25.

(b) Any satellite television or data transmission facility, if both of the following conditions are met:

(i) Over two-thirds of the transmissions, measured in megabytes, transmitted by the facility during the test period were transmitted to or on behalf of one or more direct broadcast satellite television or data transmission services that operate pursuant to 47 Code of Federal Regulations part 25.

(ii) Over two-thirds of the transmissions, measured in megabytes, transmitted by or on behalf of those direct broadcast television or data transmission services during the test period were transmitted by the facility to or on behalf of those services.

For the purposes of subdivision (b) of this paragraph, "test period" means the three hundred sixty-five day period beginning on the later of the date on which the tangible personal property is purchased or the date on which the direct broadcast satellite television or data transmission service first transmits information to its customers.

17. Clean rooms that are used for manufacturing, processing, fabrication or research and development, as defined in paragraph 14 15 of this subsection, of semiconductor products. For the purposes of this paragraph, "clean room" means all property that comprises or creates an
environment where humidity, temperature, particulate matter and contamination are precisely controlled within specified parameters, without regard to whether the property is actually contained within that environment or whether any of the property is affixed to or incorporated into real property. Clean room:

(a) Includes the integrated systems, fixtures, piping, movable partitions, lighting and all property that is necessary or adapted to reduce contamination or to control airflow, temperature, humidity, chemical purity or other environmental conditions or manufacturing tolerances, as well as the production machinery and equipment operating in conjunction with the clean room environment.

(b) Does not include the building or other permanent, nonremovable component of the building that houses the clean room environment.

17. 18. Machinery and equipment used directly in the feeding of poultry, the environmental control of ENVIRONMENTALLY CONTROLLING housing for poultry, the movement of MOVING eggs within a production and packaging facility or the sorting or cooling of eggs. This exemption does not apply to vehicles used for transporting eggs.

18. 19. Machinery or equipment, including related structural components AND CONTAINMENT STRUCTURES, that is employed in connection with manufacturing, processing, fabricating, job printing, refining, mining, natural gas pipelines, metallurgical operations, telecommunications, producing or transmitting electricity or research and development and that is used directly to meet or exceed rules or regulations adopted by the federal energy regulatory commission, the United States environmental protection agency, the United States nuclear regulatory commission, the Arizona department of environmental quality or a political subdivision of this state to prevent, monitor, control or reduce land, water or air pollution.

19. 20. Machinery and equipment that are sold to a person engaged in the commercial production of COMMERCIALLY PRODUCING livestock, livestock products or agricultural, horticultural, viticultural or floricultural crops or products in this state, including a person representing or working on behalf of such a person in a manner described in section 42-5075, subsection 0, if the machinery and equipment are used directly and primarily to prevent, monitor, control or reduce air, water or land pollution.

20. 21. Machinery or equipment that enables a television station to originate and broadcast or to receive and broadcast digital television signals and that was purchased to facilitate compliance with the telecommunications act of 1996 (P.L. 104-104; 110 Stat. 56; 47 United States Code section 336) and the federal communications commission order issued April 21, 1997 (47 Code of Federal Regulations part 73). This paragraph does not exempt any of the following:

(a) Repair or replacement parts purchased for the machinery or equipment described in this paragraph.

(b) Machinery or equipment purchased to replace machinery or equipment for which an exemption was previously claimed and taken under this paragraph.
(c) Any machinery or equipment purchased after the television station has ceased analog broadcasting, or purchased after November 1, 2009, whichever occurs first.

21–22. Qualifying equipment that is purchased from and after June 30, 2004 through June 30, 2024 by a qualified business under section 41-1516 for harvesting or processing qualifying forest products removed from qualifying projects as defined in section 41-1516. To qualify for this deduction, the qualified business at the time of purchase must present its certification approved by the department.

23. COMPUTER DATA CENTER EQUIPMENT SOLD TO THE OWNER, OPERATOR OR QUALIFIED COLOCATION TENANT OF A COMPUTER DATA CENTER THAT IS CERTIFIED BY THE ARIZONA COMMERCE AUTHORITY UNDER SECTION 41-1519 OR AN AUTHORIZED AGENT OF THE OWNER, OPERATOR OR QUALIFIED COLOCATION TENANT DURING THE QUALIFICATION PERIOD FOR USE IN THE QUALIFIED COMPUTER DATA CENTER. FOR THE PURPOSES OF THIS PARAGRAPH, "COMPUTER DATA CENTER", "COMPUTER DATA CENTER EQUIPMENT", "QUALIFICATION PERIOD" AND "QUALIFIED COLOCATION TENANT" HAVE THE SAME MEANINGS PRESCRIBED IN SECTION 41-1519.

C. The deductions provided by subsection B of this section do not include sales of:

1. Expendable materials. For the purposes of this paragraph, expendable materials do not include any of the categories of tangible personal property specified in subsection B of this section regardless of the cost or useful life of that property.

2. Janitorial equipment and hand tools.

3. Office equipment, furniture and supplies.

4. Tangible personal property used in selling or distributing activities other than the telecommunications transmissions described in subsection B, paragraph 4 of this section.

5. Motor vehicles required to be licensed by this state, except buses or other urban mass transit vehicles specifically exempted pursuant to subsection B, paragraph 4 of this section, without regard to the use of such motor vehicles.

6. Shops, buildings, docks, depots and all other materials of whatever kind or character not specifically included as exempt.

7. Motors and pumps used in drip irrigation systems.

8. Machinery and equipment or other tangible personal property used by a contractor in the performance of PERFORMING a contract.

D. In addition to the deductions from the tax base prescribed by subsection A of this section, there shall be deducted from the tax base the gross proceeds of sales or gross income derived from sales of machinery, equipment, materials and other tangible personal property used directly and predominantly to construct a qualified environmental technology manufacturing, producing or processing facility as described in section 41-1514.02. This subsection applies for ten full consecutive calendar or fiscal years after the start of initial construction.

E. In computing the tax base, gross proceeds of sales or gross income from retail sales of heavy trucks and trailers does not include any amount attributable to federal excise taxes imposed by 26 United States Code section 4051.
F. If a person is engaged in an occupation or business to which subsection A of this section applies, the person's books shall be kept so as to show separately the gross proceeds of sales of tangible personal property and the gross income from sales of services, and if not so kept the tax shall be imposed on the total of the person's gross proceeds of sales of tangible personal property and gross income from services.

G. If a person is engaged in the business of selling tangible personal property at both wholesale and retail, the tax under this section applies only to the gross proceeds of the sales made other than at wholesale if the person's books are kept so as to show separately the gross proceeds of sales of each class, and if the books are not so kept, the tax under this section applies to the gross proceeds of every sale so made.

H. A person who engages in manufacturing, baling, crating, boxing, barreling, canning, bottling, sacking, preserving, processing or otherwise preparing for sale or commercial use any livestock, agricultural or horticultural product or any other product, article, substance or commodity and who sells the product of such business at retail in this state is deemed, as to such sales, to be engaged in business classified under the retail classification. This subsection does not apply to:

1. Agricultural producers who are owners, proprietors or tenants of agricultural lands, orchards, farms or gardens where agricultural products are grown, raised or prepared for market and who are marketing their own agricultural products.

2. Businesses classified under the:
   (a) Transporting classification.
   (b) Utilities classification.
   (c) Telecommunications classification.
   (d) Pipeline classification.
   (e) Private car line classification.
   (f) Publication classification.
   (g) Job printing classification.
   (h) Prime contracting classification.
   (i) Restaurant classification.

I. The gross proceeds of sales or gross income derived from the following shall be deducted from the tax base for the retail classification:

1. Sales made directly to the United States government or its departments or agencies by a manufacturer, modifier, assembler or repairer.

2. Sales made directly to a manufacturer, modifier, assembler or repairer if such sales are of any ingredient or component part of products sold directly to the United States government or its departments or agencies by the manufacturer, modifier, assembler or repairer.

3. Overhead materials or other tangible personal property that is used in performing a contract between the United States government and a manufacturer, modifier, assembler or repairer, including property used in performing a subcontract with a government contractor who is a manufacturer, modifier, assembler or repairer, to which title passes to the government under the terms of the contract or subcontract.

4. Sales of overhead materials or other tangible personal property to a manufacturer, modifier, assembler or repairer if the gross proceeds of sales or gross income derived from the property by the manufacturer,
modifier, assembler or repairer will be exempt under paragraph 3 of this subsection.

J. There shall be deducted from the tax base fifty percent of the gross proceeds or gross income from any sale of tangible personal property made directly to the United States government or its departments or agencies that is not deducted under subsection I of this section.

K. The department shall require every person claiming a deduction provided by subsection I or J of this section to file on forms prescribed by the department at such times as the department directs a sworn statement disclosing the name of the purchaser and the exact amount of sales on which the exclusion or deduction is claimed.

L. In computing the tax base, gross proceeds of sales or gross income does not include:

1. A manufacturer's cash rebate on the sales price of a motor vehicle if the buyer assigns the buyer's right in the rebate to the retailer.

2. The waste tire disposal fee imposed pursuant to section 44-1302.

M. There shall be deducted from the tax base the amount received from sales of solar energy devices. The retailer shall register with the department as a solar energy retailer. By registering, the retailer acknowledges that it will make its books and records relating to sales of solar energy devices available to the department for examination.

N. In computing the tax base in the case of the sale or transfer of wireless telecommunications equipment as an inducement to a customer to enter into or continue a contract for telecommunications services that are taxable under section 42-5064, gross proceeds of sales or gross income does not include any sales commissions or other compensation received by the retailer as a result of the customer entering into or continuing a contract for the telecommunications services.

O. For the purposes of this section, a sale of wireless telecommunications equipment to a person who holds the equipment for sale or transfer to a customer as an inducement to enter into or continue a contract for telecommunications services that are taxable under section 42-5064 is considered to be a sale for resale in the regular course of business.

P. Retail sales of prepaid calling cards or prepaid authorization numbers for telecommunications services, including sales of reauthorization of a prepaid card or authorization number, are subject to tax under this section.

Q. For the purposes of this section, the diversion of gas from a pipeline by a person engaged in the business of:

1. Operating a natural or artificial gas pipeline, for the sole purpose of fueling compressor equipment to pressurize the pipeline, is not a sale of the gas to the operator of the pipeline.

2. Converting natural gas into liquefied natural gas, for the sole purpose of fueling compressor equipment used in the conversion process, is not a sale of gas to the operator of the compressor equipment.

R. If a seller is entitled to a deduction pursuant to subsection B, paragraph 15, subdivision (b) of this section, the department may require the purchaser to establish that the requirements of subsection B, paragraph 15, subdivision (b) of this section have been satisfied.
cannot establish that the requirements of subsection 8, paragraph 15, subdivision (b) of this section have been satisfied, the purchaser is liable in an amount equal to any tax, penalty and interest that the seller would have been required to pay under article 1 of this chapter if the seller had not made a deduction pursuant to subsection 8, paragraph 15, subdivision (b) of this section. Payment of the amount under this subsection exempts the purchaser from liability for any tax imposed under article 4 of this chapter and related to the tangible personal property purchased. The amount shall be treated as transaction privilege tax to the purchaser and as tax revenues collected from the seller to designate the distribution base pursuant to section 42-5029.

S. For the purposes of section 42-5032.01, the department shall separately account for revenues collected under the retail classification from businesses selling tangible personal property at retail:

1. On the premises of a multipurpose facility that is owned, leased or operated by the tourism and sports authority pursuant to title 5, chapter 8.

2. At professional football contests that are held in a stadium located on the campus of an institution under the jurisdiction of the Arizona board of regents.

T. In computing the tax base for the sale of a motor vehicle to a nonresident of this state, if the purchaser's state of residence allows a corresponding use tax exemption to the tax imposed by article 1 of this chapter and the rate of the tax in the purchaser's state of residence is lower than the rate prescribed in article 1 of this chapter or if the purchaser's state of residence does not impose an excise tax, and the nonresident has secured a special ninety day nonresident registration permit for the vehicle as prescribed by sections 28-2154 and 28-2154.01, there shall be deducted from the tax base a portion of the gross proceeds or gross income from the sale so that the amount of transaction privilege tax that is paid in this state is equal to the excise tax that is imposed by the purchaser's state of residence on the nonexempt sale or use of the motor vehicle.

U. For the purposes of this section:

1. "Agricultural aircraft" means an aircraft that is built for agricultural use for the aerial application of pesticides or fertilizer or for aerial seeding.

2. "Aircraft" includes:
   (a) An airplane flight simulator that is approved by the federal aviation administration for use as a phase II or higher flight simulator under appendix H, 14 Code of Federal Regulations part 121.
   (b) Tangible personal property that is permanently affixed or attached as a component part of an aircraft that is owned or operated by a certificated or licensed carrier of persons or property.

3. "Other accessories and related equipment" includes aircraft accessories and equipment such as ground service equipment that physically contact aircraft at some point during the overall carrier operation.

4. "Selling at retail" means a sale for any purpose other than for resale in the regular course of business in the form of tangible personal property, but transfer of possession, lease and rental as used in the
definition of sale mean only such transactions as are found on investigation to be in lieu of sales as defined without the words lease or rental.

V. For the purposes of subsection I of this section:

1. "Assembler" means a person who unites or combines products, wares or articles of manufacture so as to produce a change in form or substance without changing or altering the component parts.

2. "Manufacturer" means a person who is principally engaged in the fabrication, production fabricating, producing or manufacture of manufacturing products, wares or articles for use from raw or prepared materials, imparting to those materials new forms, qualities, properties and combinations.

3. "Modifier" means a person who reworks, changes or adds to products, wares or articles of manufacture.

4. "Overhead materials" means tangible personal property, the gross proceeds of sales or gross income derived from that would otherwise be included in the retail classification, and that are used or consumed in the performance of performing a contract, the cost of which is charged to an overhead expense account and allocated to various contracts based on generally accepted accounting principles and consistent with government contract accounting standards.

5. "Repairer" means a person who restores or renews products, wares or articles of manufacture.

6. "Subcontract" means an agreement between a contractor and any person who is not an employee of the contractor for furnishing of supplies or services that, in whole or in part, are necessary to the performance of performing one or more government contracts, or under which any portion of the contractor's obligation under one or more government contracts is performed, undertaken or assumed and that includes provisions causing title to overhead materials or other tangible personal property used in the performance of performing the subcontract to pass to the government or that includes provisions incorporating such title passing clauses in a government contract into the subcontract.
EXPLANATION OF BLEND
SECTION 42-5071

Laws 2021, Chapters 220 and 417

Laws 2021, Ch. 220, section 6  Effective September 29, 2021
Laws 2021, Ch. 417, section 7  Effective September 29, 2021

Explanation

Since these two enactments are compatible, the Laws 2021, Ch. 220 and Ch. 417 text changes to section 42-5071 are blended in the form shown on the following pages.
42-5071. Personal property rental classification: definitions
A. The personal property rental classification is comprised of the
business of leasing or renting tangible personal property for a
consideration AND INCLUDES PEER-TO-PEER CAR SHARING. The tax does not apply
to:

1. Leasing or renting films, tapes or slides used by theaters or
movies, which are engaged in business under the amusement classification,
or used by television stations or radio stations.
2. Activities engaged in by the Arizona exposition and state fair
board or county fair commissions in connection with events sponsored by such
entities.
3. Leasing or renting tangible personal property by a parent business
entity to a subsidiary business entity or by a subsidiary business entity
to another subsidiary of the same parent business entity if taxes were paid
under this chapter on the gross proceeds or gross income accruing from the
initial sale of the tangible personal property. For the purposes of this
paragraph, "subsidiary" means a business entity of which at least eighty
percent of the voting shares are owned by the parent business entity.
4. Operating coin-operated washing, drying and dry cleaning machines
or coin-operated car washing machines at establishments for the use of such
machines.
5. Leasing or renting tangible personal property for incorporation
into or comprising any part of a qualified environmental technology facility
as described in section 41-1514.02. This paragraph shall apply for ten full
consecutive calendar or fiscal years following the initial lease or rental
by each qualified environmental technology manufacturer, producer or
processor.
6. Leasing or renting aircraft, flight simulators or similar training
equipment to students or staff by nonprofit, accredited educational
institutions that offer associate or baccalaureate degrees in aviation or
aerospace related fields.
7. Leasing or renting photographs, transparencies or other creative
works used by this state on internet websites, in magazines or in other
publications that encourage tourism.
8. Leasing or renting certified ignition interlock devices installed
pursuant to the requirements prescribed by section 28-1461. For the purposes
of this paragraph, "certified ignition interlock device" has the same
meaning prescribed in section 28-1301.
9. The leasing or renting of space to make attachments to utility
poles, as follows:
   (a) By a person that is engaged in business under section 42-5063 or
       42-5064 or that is a cable operator.
(b) To a person that is engaged in business under section 42-5063 or 42-5064 or that is a cable operator.

10. Leasing or renting billboards that are designed, intended or used to advertise or inform and that are visible from any street, road or other highway.

B. The tax base for the personal property rental classification is the gross proceeds of sales or gross income derived from the business, but the gross proceeds of sales or gross income derived from the following shall be deducted from the tax base:

1. Reimbursements by the lessee to the lessor of a motor vehicle for payments by the lessee of the applicable fees and taxes imposed by sections 28-2003, 28-2352, 28-2402, 28-2481 and 28-5801, title 28, chapter 15, article 2 and article IX, section 11, Constitution of Arizona, to the extent such amounts are separately identified as such fees and taxes and are billed to the lessee.

2. Leases or rentals of tangible personal property that, if it had been purchased instead of leased or rented by the lessee, would have been exempt under:
   (a) Section 42-5061, subsection A, paragraph 8, 9, 12, 13, 25, 29, 49 or 53.
   (b) Section 42-5061, subsection B, except that a lease or rental of new machinery or equipment is not exempt pursuant to section 42-5061, subsection B, paragraph 13 if the lease is for less than two years.
   (c) Section 42-5061, subsection I, paragraph 1.
   (d) Section 42-5061, subsection M.

3. Motor vehicle fuel and use fuel that are subject to a tax imposed under title 28, chapter 16, article 1, sales of use fuel to a holder of a valid single trip use fuel tax permit issued under section 28-5739 and sales of aviation fuel that are subject to the tax imposed under section 28-8344.

4. Leasing or renting a motor vehicle subject to and on which the fee has been paid under title 28, chapter 16, article 4.

5. Amounts received by a motor vehicle dealer for the first month of a lease payment if the lease and the lease payment for the first month of the lease are transferred to a third-party leasing company.

C. Sales of tangible personal property to be leased or rented to a person engaged in a business classified under the personal property rental classification are deemed to be resale sales.

D. In computing the tax base, the gross proceeds of sales or gross income from the lease or rental of a motor vehicle does not include any amount attributable to the car rental surcharge under section 5-839, 28-5810 or 48-4234.

E. Until December 31, 1988, leasing or renting animals for recreational purposes is exempt from the tax imposed by this section. Beginning January 1, 1989, the gross proceeds or gross income from leasing or renting animals for recreational purposes is subject to taxation under this section. Tax liabilities, penalties and interest paid for taxable periods before January 1, 1989 shall not be refunded unless the taxpayer requesting the refund provides proof satisfactory to the department that the monies paid as taxes will be returned to the customer.
F. The tax base of the personal property rental classification does not include the gross proceeds or gross income received by a shared vehicle owner from a peer-to-peer car sharing program pursuant to Section 42-5009, subsection r.

G. For the purposes of this section:

1. "Cable operator" has the same meaning prescribed in section 9-505 and includes a video service provider.

2. "Peer-to-peer car sharing" has the same meaning prescribed in section 28-9601.

3. "Peer-to-peer car sharing program" has the same meaning prescribed in section 28-9601.

4. "Shared vehicle owner" has the same meaning prescribed in section 28-9601.

5. "Utility pole" means any wooden, metal or other pole used for utility purposes and the pole's appurtenances that are attached or authorized for attachment by the person controlling the pole.
EXPLANATION OF BLEND
SECTION 42-5075

Laws 2021, Chapters 266 and 417

Laws 2021, Ch. 266, section 5  Effective September 29, 2021
(Retroactive to September 13, 2013)

Laws 2021, Ch. 417, section 8  Effective September 29, 2021

Explanation

Since these two enactments are compatible, the Laws 2021, Ch. 266 and Ch. 417 text changes to section 42-5075 are blended in the form shown on the following pages.
42-5075. **Prime contracting classification: exemptions; definitions**

A. The prime contracting classification is comprised of the business of prime contracting and the business of manufactured building dealer. Sales for resale to another manufactured building dealer are not subject to tax. Sales for resale do not include sales to a lessor of manufactured buildings. The sale of a used manufactured building is not taxable under this chapter. The prime contracting classification does not include any work or operation performed by a person that is not required to be licensed by the registrar of contractors pursuant to section 32-1121.

B. The tax base for the prime contracting classification is sixty-five percent of the gross proceeds of sales or gross income derived from the business. The following amounts shall be deducted from the gross proceeds of sales or gross income before computing the tax base:

1. The sales price of land, which shall not exceed the fair market value.

2. Sales and installation of groundwater measuring devices required under section 45-604 and groundwater monitoring wells required by law, including monitoring wells installed for acquiring information for a permit required by law.

3. The sales price of furniture, furnishings, fixtures, appliances and attachments that are not incorporated as component parts of or attached to a manufactured building or the setup site. The sale of such items may be subject to the taxes imposed by article 1 of this chapter separately and distinctly from the sale of the manufactured building.

4. The gross proceeds of sales or gross income received from a contract entered into for the modification of any building, highway, road, railroad, excavation, manufactured building or other structure, project, development or improvement located in a military reuse zone for providing aviation or aerospace services or for a manufacturer, assembler or fabricator of aviation or aerospace products within an active military reuse zone after the zone is initially established or renewed under section 41-1531. To be eligible to qualify for this deduction, before beginning work under the contract, the prime contractor must have applied for a letter of qualification from the department of revenue.

5. The gross proceeds of sales or gross income derived from a contract to construct a qualified environmental technology manufacturing, producing or processing facility, as described in section 41-1514.02, and from subsequent construction and installation contracts that begin within ten years after the start of initial construction. To qualify for this deduction, before beginning work under the contract, the prime contractor must obtain a letter of qualification from the department of revenue. This
paragraph shall apply for ten full consecutive calendar or fiscal years after the start of initial construction.

6. The gross proceeds of sales or gross income from a contract to provide for one or more of the following actions, or a contract for site preparation, constructing, furnishing or installing machinery, equipment or other tangible personal property, including structures necessary to protect exempt incorporated materials or installed machinery or equipment, and tangible personal property incorporated into the project, to perform one or more of the following actions in response to a release or suspected release of a hazardous substance, pollutant or contaminant from a facility to the environment, unless the release was authorized by a permit issued by a governmental authority:

(a) Actions to monitor, assess and evaluate such a release or a suspected release.
(b) Excavation, removal and transportation of contaminated soil and its treatment or disposal.
(c) Treatment of contaminated soil by vapor extraction, chemical or physical stabilization, soil washing or biological treatment to reduce the concentration, toxicity or mobility of a contaminant.
(d) Pumping and treatment or in situ treatment of contaminated groundwater or surface water to reduce the concentration or toxicity of a contaminant.
(e) The installation of structures, such as cutoff walls or caps, to contain contaminants present in groundwater or soil and prevent them from reaching a location where they could threaten human health or welfare or the environment.

This paragraph does not include asbestos removal or the construction or use of ancillary structures such as maintenance sheds, offices or storage facilities for unattached equipment, pollution control equipment, facilities or other control items required or to be used by a person to prevent or control contamination before it reaches the environment.

7. The gross proceeds of sales or gross income that is derived from a contract for the installation, assembly, repair or maintenance of machinery, equipment or other tangible personal property that is either deducted from the tax base of the retail classification under section 42-5061, subsection B or that is exempt from use tax under section 42-5159, subsection B and that has independent functional utility, pursuant to the following provisions:

(a) The deduction provided in this paragraph includes the gross proceeds of sales or gross income derived from all of the following:

(i) Any activity performed on machinery, equipment or other tangible personal property with independent functional utility.

(ii) Any activity performed on any tangible personal property relating to machinery, equipment or other tangible personal property with independent functional utility in furtherance of any of the purposes provided for under subdivision (d) of this paragraph.

(iii) Any activity that is related to the activities described in items (i) and (ii) of this subdivision, including inspecting the installation of or testing the machinery, equipment or other tangible personal property.
(b) The deduction provided in this paragraph does not include gross proceeds of sales or gross income from the portion of any contracting activity that consists of the development of, or modification to, real property in order to facilitate the installation, assembly, repair, maintenance or removal of machinery, equipment or other tangible personal property that is either deducted from the tax base of the retail classification under section 42-5061, subsection B or exempt from use tax under section 42-5159, subsection B.

(c) The deduction provided in this paragraph shall be determined without regard to the size or useful life of the machinery, equipment or other tangible personal property.

(d) For the purposes of this paragraph, "independent functional utility" means that the machinery, equipment or other tangible personal property can independently perform its function without attachment to real property, other than attachment for any of the following purposes:

(i) Assembling the machinery, equipment or other tangible personal property.

(ii) Connecting items of machinery, equipment or other tangible personal property to each other.

(iii) Connecting the machinery, equipment or other tangible personal property, whether as an individual item or as a system of items, to water, power, gas, communication or other services.

(iv) Stabilizing or protecting the machinery, equipment or other tangible personal property during operation by bolting, burying or performing other similar nonpermanent connections to either real property or real property improvements.

8. The gross proceeds of sales or gross income attributable to the purchase of machinery, equipment or other tangible personal property that is exempt from or deductible from transaction privilege and use tax under:

(a) Section 42-5061, subsection A, paragraph 25, 29-57 or 59 58.

(b) Section 42-5061, subsection B.

(c) Section 42-5159, subsection A, paragraph 13, subdivision (a), (b), (c), (d), (e), (f), (j), (k), (m) or (n) or paragraph 54 or 56 55.

(d) Section 42-5159, subsection B.

9. The gross proceeds of sales or gross income received from a contract for the construction of an environmentally controlled facility for the raising of poultry for the production of eggs and the sorting, cooling and packaging of eggs.

10. The gross proceeds of sales or gross income that is derived from a contract entered into with a person who is engaged in the commercial production of livestock, livestock products or agricultural, horticultural, viticultural or floricultural crops or products in this state for the modification of any building, highway, road, excavation, manufactured building or other structure, project, development or improvement used directly and primarily to prevent, monitor, control or reduce air, water or land pollution.

11. The gross proceeds of sales or gross income that is derived from the installation, assembly, repair or maintenance of clean rooms that are deducted from the tax base of the retail classification pursuant to section Ch. 417 — 42-5061, subsection B, paragraph 16 17.
12. For taxable periods beginning from and after June 30, 2001, the gross proceeds of sales or gross income derived from a contract entered into for the construction of a residential apartment housing facility that qualifies for a federal housing subsidy for low income persons over sixty-two years of age and that is owned by a nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code.

13. For taxable periods beginning from and after December 31, 1996 and ending before January 1, 2017, the gross proceeds of sales or gross income derived from a contract to provide and install a solar energy device. The contractor shall register with the department as a solar energy contractor. By registering, the contractor acknowledges that it will make its books and records relating to sales of solar energy devices available to the department for examination.

14. The gross proceeds of sales or gross income derived from a contract entered into for the construction of a launch site, as defined in 14 Code of Federal Regulations section 401.5.

15. The gross proceeds of sales or gross income derived from a contract entered into for the construction of a domestic violence shelter that is owned and operated by a nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code.

16. The gross proceeds of sales or gross income derived from contracts to perform postconstruction treatment of real property for termite and general pest control, including wood-destroying organisms.

17. The gross proceeds of sales or gross income received from contracts entered into before July 1, 2006 for constructing a state university research infrastructure project if the project has been reviewed by the joint committee on capital review before the university enters into the construction contract for the project. For the purposes of this paragraph, "research infrastructure" has the same meaning prescribed in section 15-1670.

18. The gross proceeds of sales or gross income received from a contract for the construction of any building, or other structure, project, development or improvement owned by a qualified business under section 41-1516 for harvesting or processing qualifying forest products removed from qualifying projects as defined in section 41-1516 if actual construction begins before January 1, 2024. To qualify for this deduction, the prime contractor must obtain a letter of qualification from the Arizona commerce authority before beginning work under the contract.

19. Any amount of the gross proceeds of sales or gross income attributable to development fees that are incurred in relation to a contract for construction, development or improvement of real property and that are paid by a prime contractor or subcontractor. For the purposes of this paragraph:

(a) The attributable amount shall not exceed the value of the development fees actually imposed.

(b) The attributable amount is equal to the total amount of development fees paid by the prime contractor or subcontractor, and the total development fees credited in exchange for the construction of, contribution to or dedication of real property for providing public
infrastructure, public safety or other public services necessary to the
development. The real property must be the subject of the development fees.

(c) "Development fees" means fees imposed to offset capital costs of
providing public infrastructure, public safety or other public services to
a development and authorized pursuant to section 9-463.05, section 11-1102
or title 48 regardless of the jurisdiction to which the fees are paid.

20. The gross proceeds of sales or gross income derived from a
contract entered into for the construction of a mixed waste processing
facility that is located on a municipal solid waste landfill and that is
constructed for the purpose of recycling solid waste or producing renewable
energy from landfill waste. For the purposes of this paragraph:

(a) "Mixed waste processing facility" means a solid waste facility
that is owned, operated or used for the treatment, processing or disposal
of solid waste, recyclable solid waste, conditionally exempt small quantity
generator waste or household hazardous waste. For the purposes of this
subdivision, "conditionally exempt small quantity generator waste",
"household hazardous waste" and "solid waste facility" have the same
meanings prescribed in section 49-701, except that solid waste facility does
include a site that stores, treats or processes paper, glass, wood,
cardboard, household textiles, scrap metal, plastic, vegetative waste,
aluminum, steel or other recyclable material.

(b) "Municipal solid waste landfill" has the same meaning prescribed
in section 49-701.

(c) "Recycling" means collecting, separating, cleansing, treating
and reconstituting recyclable solid waste that would otherwise become solid
waste, but does not include incineration or other similar processes.

(d) "Renewable energy" has the same meaning prescribed in section
41-1511.

C. Entitlement to the deduction pursuant to subsection B, paragraph
7 of this section is subject to the following provisions:

1. A prime contractor may establish entitlement to the deduction by
both:

(a) Marking the invoice for the transaction to indicate that the
gross proceeds of sales or gross income derived from the transaction was
deducted from the base.

(b) Obtaining a certificate executed by the purchaser indicating the
name and address of the purchaser, the precise nature of the business of
the purchaser, the purpose for which the purchase was made, the necessary
facts to establish the deductibility of the property under section 42-5061,
subsection B, and a certification that the person executing the certificate
is authorized to do so on behalf of the purchaser. The certificate may be
disregarded if the prime contractor has reason to believe that the
information contained in the certificate is not accurate or complete.

2. A person who does not comply with paragraph 1 of this subsection
may establish entitlement to the deduction by presenting facts necessary to
support the entitlement, but the burden of proof is on that person.

3. The department may prescribe a form for the certificate described
in paragraph 1, subdivision (b) of this subsection. The department may also
adopt rules that describe the transactions with respect to which a person
is not entitled to rely solely on the information contained in the
certificate provided in paragraph 1, subdivision (b) of this subsection but must instead obtain such additional information as required in order to be entitled to the deduction.

4. If a prime contractor is entitled to a deduction by complying with paragraph 1 of this subsection, the department may require the purchaser who caused the execution of the certificate to establish the accuracy and completeness of the information required to be contained in the certificate that would entitle the prime contractor to the deduction. If the purchaser cannot establish the accuracy and completeness of the information, the purchaser is liable in an amount equal to any tax, penalty and interest that the prime contractor would have been required to pay under article 1 of this chapter if the prime contractor had not complied with paragraph 1 of this subsection. Payment of the amount under this paragraph exempts the purchaser from liability for any tax imposed under article 4 of this chapter. The amount shall be treated as a transaction privilege tax to the purchaser and as tax revenues collected from the prime contractor in order to designate the distribution base for purposes of section 42-5029.

D. Subcontractors or others who perform modification activities are not subject to tax if they can demonstrate that the job was within the control of a prime contractor or contractors or a dealership of manufactured buildings and that the prime contractor or dealership is liable for the tax on the gross income, gross proceeds of sales or gross receipts attributable to the job and from which the subcontractors or others were paid.

E. Amounts received by a contractor for a project are excluded from the contractor's gross proceeds of sales or gross income derived from the business if the person who hired the contractor executes and provides a certificate to the contractor stating that the person providing the certificate is a prime contractor and is liable for the tax under article 1 of this chapter. The department shall prescribe the form of the certificate. If the contractor has reason to believe that the information contained on the certificate is erroneous or incomplete, the department may disregard the certificate. If the person who provides the certificate is not liable for the tax as a prime contractor, that person is nevertheless deemed to be the prime contractor in lieu of the contractor and is subject to the tax under this section on the gross receipts or gross proceeds received by the contractor.

F. Every person engaging or continuing in this state in the business of prime contracting or dealership of manufactured buildings shall present to the purchaser of such prime contracting or manufactured building a written receipt of the gross income or gross proceeds of sales from such activity and shall separately state the taxes to be paid pursuant to this section.

G. For the purposes of section 42-5032.01, the department shall separately account for revenues collected under the prime contracting classification from any prime contractor engaged in the preparation or construction of a multipurpose facility, and related infrastructure, that is owned, operated or leased by the tourism and sports authority pursuant to title 5, chapter 8.

H. For the purposes of section 42-5032.02, from and after September 30, 2013, the department shall separately account for revenues reported and collected under the prime contracting classification from any
prime contractor engaged in the construction of any buildings and associated improvements that are for the benefit of a manufacturing facility. For the purposes of this subsection, "associated improvements" and "manufacturing facility" have the same meanings prescribed in section 42-5032.02.

I. The gross proceeds of sales or gross income derived from a contract for lawn maintenance services is not subject to tax under this section if the contract does not include landscaping activities. Lawn maintenance service is a service pursuant to section 42-5061, subsection A, paragraph 1, and includes lawn mowing and edging, weeding, repairing sprinkler heads or drip irrigation heads, seasonal replacement of flowers, refreshing gravel, lawn dethatching, seeding winter lawns, leaf and debris collection and removal, tree or shrub pruning or clipping, garden and gravel raking and applying pesticides, as defined in section 3-361, and fertilizer materials, as defined in section 3-262.

J. Except as provided in subsection G of this section, the gross proceeds of sales or gross income derived from landscaping activities is subject to tax under this section. Landscaping includes installing lawns, grading or leveling ground, installing gravel or boulders, planting trees and other plants, felling trees, removing or mulching tree stumps, removing other imbedded plants, building irrigation berms, installing railroad ties and installing underground sprinkler or watering systems.

K. The portion of gross proceeds of sales or gross income attributable to the actual direct costs of providing architectural or engineering services that are incorporated in a contract is not subject to tax under this section. For the purposes of this subsection, "direct costs" means the portion of the actual costs that are directly expended in providing architectural or engineering services.

L. Operating a landfill or a solid waste disposal facility is not subject to taxation under this section, including filling, compacting and creating vehicle access to and from cell sites within the landfill. Constructing roads to a landfill or solid waste disposal facility and constructing cells within a landfill or solid waste disposal facility may be deemed prime contracting under this section.

M. The following apply in determining the taxable situs of sales of manufactured buildings:

1. For sales in this state where the manufactured building dealer contracts to deliver the building to a setup site or to perform the setup in this state, the taxable situs is the setup site.

2. For sales in this state where the manufactured building dealer does not contract to deliver the building to a setup site or does not perform the setup, the taxable situs is the location of the dealership where the building is delivered to the buyer.

3. For sales in this state where the manufactured building dealer contracts to deliver the building to a setup site that is outside this state, the situs is outside this state and the transaction is excluded from tax.

N. The gross proceeds of sales or gross income attributable to a written contract for design phase services or professional services, executed before modification begins and with terms, conditions and pricing of all of these services separately stated in the contract from those for
construction phase services, is not subject to tax under this section, regardless of whether the services are provided sequential to or concurrent with prime contracting activities that are subject to tax under this section. This subsection does not include the gross proceeds of sales or gross income attributable to construction phase services. For the purposes of this subsection:

1. "Construction phase services" means services for the execution and completion of any modification, including the following:

(a) Administration or supervision of any modification performed on the project, including team management and coordination, scheduling, cost controls, submittal process management, field management, safety program, close-out process and warranty period services.

(b) Administration or supervision of any modification performed pursuant to a punch list. For the purposes of this subdivision, "punch list" means minor items of modification work performed after substantial completion and before final completion of the project.

(c) Administration or supervision of any modification performed pursuant to change orders. For the purposes of this subdivision, "change order" means a written instrument issued after execution of a contract for modification work, providing for all of the following:

(i) The scope of a change in the modification work, contract for modification work or other contract documents.

(ii) The amount of an adjustment, if any, to the guaranteed maximum price as set in the contract for modification work. For the purposes of this item, "guaranteed maximum price" means the amount guaranteed to be the maximum amount due to a prime contractor for the performance of all modification work for the project.

(iii) The extent of an adjustment, if any, to the contract time of performance set forth in the contract.

(d) Administration or supervision of any modification performed pursuant to change directives. For the purposes of this subdivision, "change directive" means a written order directing a change in modification work before agreement on an adjustment of the guaranteed maximum price or contract time.

(e) Inspection to determine the dates of substantial completion or final completion.

(f) Preparation of any manuals, warranties, as-built drawings, spares or other items the prime contractor must furnish pursuant to the contract for modification work. For the purposes of this subdivision, "as-built drawing" means a drawing that indicates field changes made to adapt to field conditions, field changes resulting from change orders or buried and concealed installation of piping, conduit and utility services.

(g) Preparation of status reports after modification work has begun detailing the progress of work performed, including preparation of any of the following:

(i) Master schedule updates.

(ii) Modification work cash flow projection updates.

(iii) Site reports made on a periodic basis.

(iv) Identification of discrepancies, conflicts or ambiguities in modification work documents that require resolution.
(v) Identification of any health and safety issues that have arisen in connection with the modification work.

(h) Preparation of daily logs of modification work, including documentation of personnel, weather conditions and on-site occurrences.

(i) Preparation of any submittals or shop drawings used by the prime contractor to illustrate details of the modification work performed.

(j) Administration or supervision of any other activities for which a prime contractor receives a certificate for payment or certificate for final payment based on the progress of modification work performed on the project.

2. "Design phase services" means services for developing and completing a design for a project that are not construction phase services, including the following:

(a) Evaluating surveys, reports, test results or any other information on-site conditions for the project, including physical characteristics, legal limitations and utility locations for the site.

(b) Evaluating any criteria or programming objectives for the project to ascertain requirements for the project, such as physical requirements affecting cost or projected utilization of the project.

(c) Preparing drawings and specifications for architectural program documents, schematic design documents, design development documents, modification work documents or documents that identify the scope of or materials for the project.

(d) Preparing an initial schedule for the project, excluding the preparation of updates to the master schedule after modification work has begun.

(e) Preparing preliminary estimates of costs of modification work before completion of the final design of the project, including an estimate or schedule of values for any of the following:

(i) Labor, materials, machinery and equipment, tools, water, heat, utilities, transportation and other facilities and services used in the execution and completion of modification work, regardless of whether they are temporary or permanent or whether they are incorporated in the modifications.

(ii) The cost of labor and materials to be furnished by the owner of the real property.

(iii) The cost of any equipment of the owner of the real property to be assigned by the owner to the prime contractor.

(iv) The cost of any labor for installation of equipment separately provided by the owner of the real property that has been designed, specified, selected or specifically provided for in any design document for the project.

(v) Any fee paid by the owner of the real property to the prime contractor pursuant to the contract for modification work.

(vi) Any bond and insurance premiums.

(vii) Any applicable taxes.

(viii) Any contingency fees for the prime contractor that may be used before final completion of the project.

(f) Reviewing and evaluating cost estimates and project documents to prepare recommendations on site use, site improvements, selection of materials, building systems and equipment, modification feasibility,
availability of materials and labor, local modification activity as related
to schedules and time requirements for modification work.

(g) Preparing the plan and procedures for selection of
subcontractors, including any prequalification of subcontractor candidates.

3. "Professional services" means architect services, engineer
services, geologist services, land surveying services or landscape architect
services that are within the scope of those services as provided in title
32, chapter 1 and for which gross proceeds of sales or gross income has not
otherwise been deducted under subsection K of this section.

0. The gross proceeds of sales or gross income derived from a contract
with the owner of real property or improvements to real property for the
maintenance, repair, replacement or alteration of existing property is not
subject to tax under this section if the contract does not include
modification activities, except as specified in this subsection. The gross
proceeds of sales or gross income derived from a de minimis amount of
modification activity does not subject the contract or any part of the
contract to tax under this section. For the purposes of this subsection:

1. Tangible personal property that is incorporated or fabricated into
a project described in this subsection may be subject to the amount
prescribed in section 42-5008.01.

2. Each contract is independent of any other contract, except that
any change order that directly relates to the scope of work of the original
contract shall be treated the same as the original contract under this
chapter, regardless of the amount of modification activities included in
the change order. If a change order does not directly relate to the scope
of work of the original contract, the change order shall be treated as a
new contract, with the tax treatment of any subsequent change order to
follow the tax treatment of the contract to which the scope of work of the
subsequent change order directly relates.

P. Notwithstanding subsection 0 of this section, a contract that
primarily involves surface or subsurface improvements to land and that is
subject to title 28, chapter 19, 20 or 22 or title 34, chapter 2 or 6 is
taxable under this section, even if the contract also includes vertical
improvements. Agencies that are subject to procurement processes under
those provisions shall include in the request for proposals a notice to
bidders when those projects are subject to this section. This subsection
does not apply to contracts with:

1. Community facilities districts, fire districts, county television
improvement districts, community park maintenance districts, cotton pest
control districts, hospital districts, pest abatement districts, health
service districts, agricultural improvement districts, county free library
districts, county jail districts, county stadium districts, special health
care districts, public health services districts, theme park districts or
revitalization districts.

2. Any special taxing district not specified in paragraph 1 of this
subsection if the district does not substantially engage in the
modification, maintenance, repair, replacement or alteration of surface or
subsurface improvements to land.

Q. Notwithstanding subsection R, paragraph 10 of this section, a
person owning real property who enters into a contract for sale of the real
property, who is responsible to the new owner of the property for modifications made to the property in the period subsequent to the transfer of title and who receives a consideration for the modifications is considered a prime contractor solely for purposes of taxing the gross proceeds of sale or gross income received for the modifications made subsequent to the transfer of title. The original owner's gross proceeds of sale or gross income received for the modifications shall be determined according to the following methodology:

1. If any part of the contract for sale of the property specifies amounts to be paid to the original owner for the modifications to be made in the period subsequent to the transfer of title, the amounts are included in the original owner's gross proceeds of sale or gross income under this section. Proceeds from the sale of the property that are received after transfer of title and that are unrelated to the modifications made subsequent to the transfer of title are not considered gross proceeds of sale or gross income from the modifications.

2. If the original owner enters into an agreement separate from the contract for sale of the real property providing for amounts to be paid to the original owner for the modifications to be made in the period subsequent to the transfer of title to the property, the amounts are included in the original owner's gross proceeds of sale or gross income received for the modifications made subsequent to the transfer of title.

3. If the original owner is responsible to the new owner for modifications made to the property in the period subsequent to the transfer of title and derives any gross proceeds of sale or gross income from the project subsequent to the transfer of title other than a delayed disbursement from escrow unrelated to the modifications, it is presumed that the amounts are received for the modifications made subsequent to the transfer of title unless the contrary is established by the owner through its books, records and papers kept in the regular course of business.

4. The tax base of the original owner is computed in the same manner as a prime contractor under this section.

R. For the purposes of this section:

1. "Alteration" means an activity or action that causes a direct physical change to existing property. For the purposes of this paragraph:

(a) For existing property that is properly classified as class two property under section 42-12002, paragraph 1, subdivision (c) or paragraph 2, subdivision (c) and that is used for residential purposes, class three property under section 42-12003 or class four property under section 42-12004, this paragraph does not apply if the contract amount is more than twenty-five percent of the most recent full cash value established under chapter 13, article 2 of this title as of the date of any bid for the work or the date of the contract, whichever value is higher.

(b) For all existing property other than existing property described in subdivision (a) of this paragraph, this paragraph does not apply if the contract amount is more than seven hundred fifty thousand dollars $750,000.

(c) Project elements may not be artificially separated from a contract to cause a project to qualify as an alteration. The department has the burden of proof that project elements have been artificially separated from a contract.
(d) If a project for which the owner and the person performing the work reasonably believed, at the inception of the contract, would be treated as an alteration under this paragraph and, on completion of the project, the project exceeded the applicable threshold described in either subdivision (a) or (b) of this paragraph by no more than twenty-five percent of the applicable threshold for any reason, the work performed under the contract qualifies as an alteration.

(e) A change order that directly relates to the scope of work of the original contract shall be treated as part of the original contract, and the contract amount shall include any amount attributable to a change order that directly relates to the scope of work of the original contract.

(f) Alteration does not include maintenance, repair or replacement.

2. "Contracting" means engaging in business as a contractor.

3. "Contractor" is synonymous with the term "builder" and means any person or organization that undertakes to or offers to undertake to, or purports to have the capacity to undertake to, or submits a bid to, or does personally or by or through others, modify any building, highway, road, railroad, excavation, manufactured building or other structure, project, development or improvement, or to do any part of such a project, including the erection of scaffolding or other structure or works in connection with such a project, and includes subcontractors and specialty contractors. For all purposes of taxation or deduction, this definition shall govern without regard to whether or not such a contractor is acting in fulfillment of a contract.

4. "Manufactured building" means a manufactured home, mobile home or factory-built building, as defined in section 41-4001.

5. "Manufactured building dealer" means a dealer who either:
   (a) is licensed pursuant to title 41, chapter 37, article 4 and who sells manufactured buildings to the final consumer.
   (b) supervises, performs or coordinates the excavation and completion of site improvements or the setup of a manufactured building, including the contracting, if any, with any subcontractor or specialty contractor for the completion of the contract.

6. "Modification" means construction, grading and leveling ground, wreckage or demolition. Modification does not include:
   (a) any project described in subsection (a) of this section.
   (b) any wreckage or demolition of existing property, or any other activity that is a necessary component of a project described in subsection (a) of this section.
   (c) any mobilization or demobilization related to a project described in subsection (a) of this section, such as the erection or removal of temporary facilities to be used by those persons working on the project.

7. "Modify" means to make a modification or cause a modification to be made.

8. "Owner" means the person that holds title to the real property or improvements to real property that is the subject of the work, as well as an agent of the title holder and any person with the authority to perform or authorize work on the real property or improvements, including a tenant and a property manager. For the purposes of subsection (a) of this section, a person who is hired by a general contractor that is hired by an owner, or
a subcontractor of a general contractor that is hired by an owner, is considered to be hired by the owner.


10. "Prime contractor" means a contractor who supervises, performs or coordinates the modification of any building, highway, road, railroad, excavation, manufactured building or other structure, project, development or improvement, including the contracting, if any, with any subcontractors or specialty contractors and who is responsible for the completion of the contract. Except as provided in subsections E and Q of this section, a person who owns real property, who engages one or more contractors to modify that real property and who does not itself modify that real property is not a prime contractor within the meaning of this paragraph regardless of the existence of a contract for sale or the subsequent sale of that real property.

11. "Replacement" means the removal from service of one component or system of existing property or tangible personal property installed in existing property, including machinery or equipment, and the installation of a new component or system or new tangible personal property, including machinery or equipment, that provides the same, a similar or an upgraded design or functionality, regardless of the contract amount and regardless of whether the existing component or system or existing tangible personal property is physically removed from the existing property.

12. "Sale of a used manufactured building" does not include a lease of a used manufactured building.
EXPLANATION OF BLEND
SECTION 42-5159

Laws 2021, Chapters 266, 412 and 417

Laws 2021, Ch. 266, section 6                     Effective September 29, 2021
                                                 (Retroactive to September 13, 2013)

Laws 2021, Ch. 412, section 9                     Effective September 29, 2021
                                                 (Retroactive to January 1, 2016)

Laws 2021, Ch. 417, section 9                     Effective September 29, 2021

Explanation

Since these three enactments are compatible, the Laws 2021, Ch. 266, Ch. 412 and Ch. 417 text changes to section 42-5159 are blended in the form shown on the following pages.
42-5159. Exemptions

A. The tax levied by this article does not apply to the storage, use or consumption in this state of the following described tangible personal property:

1. Tangible personal property, sold in this state, the gross receipts from the sale of which are included in the measure of the tax imposed by articles 1 and 2 of this chapter.

2. Tangible personal property, the sale or use of which has already been subjected to an excise tax at a rate equal to or exceeding the tax imposed by this article under the laws of another state of the United States. If the excise tax imposed by the other state is at a rate less than the tax imposed by this article, the tax imposed by this article is reduced by the amount of the tax already imposed by the other state.

3. Tangible personal property, the storage, use or consumption of which the constitution or laws of the United States prohibit this state from taxing or to the extent that the rate or imposition of tax is unconstitutional under the laws of the United States.

4. Tangible personal property that directly enters into and becomes an ingredient or component part of any manufactured, fabricated or processed article, substance or commodity for sale in the regular course of business.

5. Motor vehicle fuel and use fuel, the sales, distribution or use of which in this state is subject to the tax imposed under title 28, chapter 16, article 1, use fuel that is sold to or used by a person holding a valid single trip use fuel tax permit issued under section 28-5739, aviation fuel, the sales, distribution or use of which in this state is subject to the tax imposed under section 28-8344, and jet fuel, the sales, distribution or use of which in this state is subject to the tax imposed under article 8 of this chapter.

6. Tangible personal property brought into this state by an individual who was a nonresident at the time the property was purchased for storage, use or consumption by the individual if the first actual use or consumption of the property was outside this state, unless the property is used in conducting a business in this state.

7. Purchases of implants used as growth promotants and injectable medicines, not already exempt under paragraph 16 of this subsection, for livestock and poultry owned by, or in possession of, persons who are engaged in producing livestock, poultry, or livestock or poultry products, or who are engaged in feeding livestock or poultry commercially. For the purposes of this paragraph, "poultry" includes ratites.
8. Purchases of:
   (a) Livestock and poultry to persons engaging in the businesses of
       farming, ranching or producing livestock or poultry.
   (b) Livestock and poultry feed, salts, vitamins and other additives
       sold to persons for use or consumption in the businesses of farming, ranching
       and producing or feeding livestock or poultry or for use or consumption in
       noncommercial boarding of livestock. For the purposes of this paragraph, "poultry"
       includes ratites.

9. Propagative materials for use in commercially producing
   agricultural, horticultural, viticultural or floricultural crops in this
   state. For the purposes of this paragraph, "propagative materials":
   (a) Includes seeds, seedlings, roots, bulbs, liners, transplants,
       cuttings, soil and plant additives, agricultural minerals, auxiliary soil
       and plant substances, micronutrients, fertilizers, insecticides, herbicides,
       fungicides, soil fumigants, desiccants, rodenticides, adjuvants, plant
       nutrients and plant growth regulators.
   (b) Except for use in commercially producing industrial hemp as
       defined in section 3-311, does not include any propagative materials used
       in producing any part, including seeds, of any plant of the genus cannabis.

10. Tangible personal property not exceeding $200 in any one month
    purchased by an individual at retail outside the continental limits of the
    United States for the individual's own personal use and enjoyment.

11. Advertising supplements that are intended for sale with
    newspapers published in this state and that have already been subjected to
    an excise tax under the laws of another state in the United States that
    equals or exceeds the tax imposed by this article.

12. Materials that are purchased by or for publicly funded libraries,
    including school district libraries, charter school libraries, community
    college libraries, state university libraries or federal, state, county or
    municipal libraries, for use by the public as follows:
    (a) Printed or photographic materials, beginning August 7, 1985.
    (b) Electronic or digital media materials, beginning July 17, 1994.

13. Tangible personal property purchased by:
    (a) A hospital organized and operated exclusively for charitable
      purposes, no part of the net earnings of which inures to the benefit of any
      private shareholder or individual.
    (b) A hospital operated by this state or a political subdivision of
      this state.
    (c) A licensed nursing care institution or a licensed residential
      care institution or a residential care facility operated in conjunction with
      a licensed nursing care institution or a licensed kidney dialysis center,
      which provides medical services, nursing services or health related services
      and is not used or held for profit.
    (d) A qualifying health care organization, as defined in section
        42-5001, if the tangible personal property is used by the organization
        solely to provide health and medical related educational and charitable
        services.
    (e) A qualifying health care organization as defined in section
        42-5001 if the organization is dedicated to providing educational,
        therapeutic, rehabilitative and family medical education training for blind
and visually impaired children and children with multiple disabilities from the time of birth to age twenty-one.

(f) A nonprofit charitable organization that has qualified under section 501(c)(3) of the United States internal revenue code and that engages in and uses such property exclusively in programs for persons with mental or physical disabilities if the programs are exclusively for training, job placement, rehabilitation or testing.

(g) A person that is subject to tax under this chapter by reason of being engaged in business classified under section 42-5075, or a subcontractor working under the control of a person that is engaged in business classified under section 42-5075, if the tangible personal property is any of the following:

(i) Incorporated or fabricated by the person into a structure, project, development or improvement in fulfillment of a contract.

(ii) Incorporated or fabricated by the person into any project described in section 42-5075, subsection 0.

(iii) Used in environmental response or remediation activities under section 42-5075, subsection B, paragraph 6.

(h) A person that is not subject to tax under section 42-5075 and that has been provided a copy of a certificate described in section 42-5009, subsection L, if the property purchased is incorporated or fabricated by the person into the real property, structure, project, development or improvement described in the certificate.

(i) A nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code if the property is purchased from the parent or an affiliate organization that is located outside this state.

(j) A qualifying community health center as defined in section 42-5001.

(k) A nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code and that regularly serves meals to the needy and indigent on a continuing basis at no cost.

(l) A person engaged in business under the transient lodging classification if the property is a personal hygiene item or articles used by human beings for food, drink or condiment, except alcoholic beverages, which are furnished without additional charge to and intended to be consumed by the transient during the transient's occupancy.

(m) For taxable periods beginning from and after June 30, 2001, a nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code and that provides residential apartment housing for low-income LOW-INCOME persons over sixty-two years of age in a facility that qualifies for a federal housing subsidy, if the tangible personal property is used by the organization solely to provide residential apartment housing for low-income LOW-INCOME persons over sixty-two years of age in a facility that qualifies for a federal housing subsidy.

(n) A qualifying health sciences educational institution as defined in section 42-5001.

(o) A person representing or working on behalf of any person described in subdivision (a), (b), (c), (d), (e), (f), (i), (j), (k), (m)
or (n) of this paragraph, if the tangible personal property is incorporated or fabricated into a project described in section 42-5075, subsection 0.

14. Commodities, as defined by title 7 United States Code section 2, that are consigned for resale in a warehouse in this state in or from which the commodity is deliverable on a contract for future delivery subject to the rules of a commodity market regulated by the United States commodity futures trading commission.

15. Tangible personal property sold by:
   (a) Any nonprofit organization organized and operated exclusively for charitable purposes and recognized by the United States internal revenue service under section 501(c)(3) of the internal revenue code.
   (b) A nonprofit organization that is exempt from taxation under section 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if the organization is associated with a major league baseball team or a national touring professional golfing association and no part of the organization's net earnings inures to the benefit of any private shareholder or individual. This subdivision does not apply to an organization that is owned, managed or controlled, in whole or in part, by a major league baseball team, or its owners, officers, employees or agents, or by a major league baseball association or professional golfing association, or its owners, officers, employees or agents, unless the organization conducted or operated exhibition events in this state before January 1, 2018 that were exempt from transaction privilege tax under section 42-5073.
   (c) A nonprofit organization that is exempt from taxation under section 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7) or 501(c)(8) of the internal revenue code if the organization sponsors or operates a rodeo featuring primarily farm and ranch animals and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

16. Drugs and medical oxygen, including delivery hose, mask or tent, —regulator and tank, on the prescription of IF PRESCRIBED BY a member of the medical, dental or veterinarian profession who is licensed by law to administer such substances.

17. Prosthetic appliances, as defined in section 23-501, prescribed or recommended by a person who is licensed, registered or otherwise professionally credentialed as a physician, dentist, podiatrist, chiropractor, naturopath, homeopath, nurse or optometrist.

18. Prescription eyeglasses and contact lenses.

19. Insulin, insulin syringes and glucose test strips.

20. Hearing aids as defined in section 36-1901.

21. Durable medical equipment that has a centers for medicare and medicaid services common procedure code, is designated reimbursable by medicare, is prescribed by a person who is licensed under title 32, chapter 7, 13, 17 or 29, can withstand repeated use, is primarily and customarily used to serve a medical purpose, is generally not useful to a person in the absence of illness or injury and is appropriate for use in the home.

22. Food, as provided in and subject to the conditions of article 3 of this chapter and sections 42-5074 and 42-6017.

23. Items purchased with United States department of agriculture coupons issued under the supplemental nutrition assistance program pursuant to the food and nutrition act of 2008 (P.L. 98-525; 78 Stat. 703; 7 United
States Code sections 2011 through 2036b) by the United States department of agriculture food and nutrition service or food instruments issued under section 17 of the child nutrition act (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; P.L. 111-296; 42 United States Code section 1786).

24. Food and drink provided without monetary charge by a taxpayer that is subject to section 42-5074 to its employees for their own consumption on the premises during the employees' hours of employment.

25. Tangible personal property that is used or consumed in a business subject to section 42-5074 for human food, drink or condiment, whether simple, mixed or compounded.

26. Food, drink or condiment and accessory tangible personal property that are acquired for use by or provided to a school district or charter school if they are to be either served or prepared and served to persons for consumption on the premises of a public school in the school district or on the premises of the charter school during school hours.

27. Lottery tickets or shares purchased pursuant to title 5, chapter 5.1, article 1.

28. Textbooks, sold by a bookstore, that are required by any state university or community college.

29. Magazines, other periodicals or other publications produced by this state to encourage tourist travel.

30. Paper machine clothing, such as forming fabrics and dryer felts, purchased by a paper manufacturer and directly used or consumed in paper manufacturing.

31. Coal, petroleum, coke, natural gas, virgin fuel oil and electricity purchased by a qualified environmental technology manufacturer, producer or processor as defined in section 41-1514.02 and directly used or consumed in the generation generating or provision of providing on-site power or energy solely for environmental technology manufacturing, producing or processing or environmental protection. This paragraph shall apply applies for twenty full consecutive calendar or fiscal years from the date the first paper manufacturing machine is placed in service. In the case of an environmental technology manufacturer, producer or processor who does not manufacture paper, the time period shall begin begins with the date the first manufacturing, processing or production equipment is placed in service.

32. Motor vehicles that are removed from inventory by a motor vehicle dealer as defined in section 28-4301 and that are provided to:
   (a) Charitable or educational institutions that are exempt from taxation under section 501(c)(3) of the internal revenue code.
   (b) Public educational institutions.
   (c) State universities or affiliated organizations of a state university if no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

33. Natural gas or liquefied petroleum gas used to propel a motor vehicle.

34. Machinery, equipment, technology or related supplies that are only useful to assist a person with a physical disability as defined in section 46-191 or a person who has a developmental disability as defined in
section 36-551 or has a head injury as defined in section 41-3201 to be more independent and functional.

35. Liquid, solid or gaseous chemicals used in manufacturing, processing, fabricating, mining, refining, metallurgical operations, research and development and, beginning on January 1, 1999, printing, if using or consuming the chemicals, alone or as part of an integrated system of chemicals, involves direct contact with the materials from which the product is produced for the purpose of causing or permitting ALLOWING a chemical or physical change to occur in the materials as part of the production process. This paragraph does not include chemicals that are used or consumed in activities such as packaging, storage or transportation but does not affect any exemption for such chemicals that is otherwise provided by this section. For the purposes of this paragraph, "printing" means a commercial printing operation and includes job printing, engraving, embossing, copying and bookbinding.

36. Food, drink and condiment purchased for consumption within the premises of any prison, jail or other institution under the jurisdiction of the state department of corrections, the department of public safety, the department of juvenile corrections or a county sheriff.

37. A motor vehicle and any repair and replacement parts and tangible personal property becoming a part of such motor vehicle sold to a motor carrier THAT IS subject to a fee prescribed in title 28, chapter 16, article 4 and THAT IS engaged in the business of leasing or renting such a property.

38. Tangible personal property that is or directly enters into and becomes an ingredient or component part of cards used as prescription plan identification cards.

39. Overhead materials or other tangible personal property that is used in performing a contract between the United States government and a manufacturer, modifier, assembler or repairer, including property used in performing a subcontract with a government contractor who is a manufacturer, modifier, assembler or repairer, to which title passes to the government under the terms of the contract or subcontract. For the purposes of this paragraph:

(a) "Overhead materials" means tangible personal property, the gross proceeds of sales or gross income derived from which would otherwise be included in the retail classification, that is used or consumed in the performance of performing a contract, the cost of which is charged to an overhead expense account and allocated to various contracts based on generally accepted accounting principles and consistent with government contract accounting standards.

(b) "Subcontract" means an agreement between a contractor and any person who is not an employee of the contractor for furnishing of supplies or services that, in whole or in part, are necessary to perform one or more government contracts, or under which any portion of the contractor's obligation under one or more government contracts is performed, undertaken or assumed, and that includes provisions causing title to overhead materials or other tangible personal property used in the performance of performing the subcontract to pass to the government or that
includes provisions incorporating such title passing clauses in a government contract into the subcontract.

40. Through December 31, 1994, tangible personal property sold pursuant to a personal property liquidation transaction, as defined in section 42-5061. From and after December 31, 1994, tangible personal property sold pursuant to a personal property liquidation transaction, as defined in section 42-5061, if the gross proceeds of the sales were included in the measure of the tax imposed by article 1 of this chapter or if the personal property liquidation was a casual activity or transaction.

41. Wireless telecommunications equipment that is held for sale or transfer to a customer as an inducement to enter into or continue a contract for telecommunications services that are taxable under section 42-5064.

42. Alternative fuel, as defined in section 1-215, purchased by a used oil fuel burner who has received a permit to burn used oil or used oil fuel under section 49-426 or 49-480.

43. Tangible personal property purchased by a commercial airline and consisting of food, beverages and condiments and accessories used for serving the food and beverages, if those items are to be provided without additional charge to passengers for consumption in flight. For the purposes of this paragraph, "commercial airline" means a person holding a federal certificate of public convenience and necessity or foreign air carrier permit for air transportation to transport persons, property or United States mail in intrastate, interstate or foreign commerce.

44. Alternative fuel vehicles if the vehicle was manufactured as a diesel fuel vehicle and converted to operate on alternative fuel and equipment that is installed in a conventional diesel fuel motor vehicle to convert the vehicle to operate on an alternative fuel, as defined in section 1-215.

45. Gas diverted from a pipeline, by a person engaged in the business of:
   (a) Operating a natural or artificial gas pipeline, and used or consumed for the sole purpose of fueling compressor equipment that pressurizes the pipeline.
   (b) Converting natural gas into liquefied natural gas, and used or consumed for the sole purpose of fueling compressor equipment used in the conversion process.

46. Tangible personal property that is excluded, exempt or deductible from transaction privilege tax pursuant to section 42-5063.

47. Tangible personal property purchased to be incorporated or installed as part of environmental response or remediation activities under section 42-5075, subsection B, paragraph 6.

48. Tangible personal property sold by a nonprofit organization that is exempt from taxation under section 501(c)(6) of the internal revenue code if the organization produces, organizes or promotes cultural or civic related festivals or events and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

49. Prepared food, drink or condiment donated by a restaurant as classified in section 42-5074, subsection A to a nonprofit charitable organization that has qualified under section 501(c)(3) of the internal
revenue code and that regularly serves meals to the needy and indigent on a continuing basis at no cost.

50. Application services that are designed to assess or test student learning or to promote curriculum design or enhancement purchased by or for any school district, charter school, community college or state university. For the purposes of this paragraph:
   (a) "Application services" means software applications provided remotely using hypertext transfer protocol or another network protocol.
   (b) "Curriculum design or enhancement" means planning, implementing or reporting on courses of study, lessons, assignments or other learning activities.

51. Motor vehicle fuel and use fuel to a qualified business under section 41-1516 for off-road use in harvesting, processing or transporting qualifying forest products removed from qualifying projects as defined in section 41-1516.

52. Repair parts installed in equipment used directly by a qualified business under section 41-1516 in harvesting, processing or transporting qualifying forest products removed from qualifying projects as defined in section 41-1516.

53. Renewable energy credits or any other unit created to track energy derived from renewable energy resources. For the purposes of this paragraph, "renewable energy credit" means a unit created administratively by the corporation commission or governing body of a public power entity to track kilowatt hours of electricity derived from a renewable energy resource or the kilowatt hour equivalent of conventional energy resources displaced by distributed renewable energy resources.

54. Computer data center equipment sold to the owner, operator or qualified colocation tenant of a computer data center that is certified by the Arizona commerce authority under section 41-1519 or an authorized agent of the owner, operator or qualified colocation tenant during the qualification period for use in the qualified computer data center. For the purposes of this paragraph, "computer data center", "computer data center equipment", "qualification period" and "qualified colocation tenant" have the same meanings prescribed in section 41-1519.

55. Coal acquired from an owner or operator of a power plant by a person who is responsible for refining coal if both of the following apply:
   (a) The transfer of title or possession of the coal is for the purpose of refining the coal.
   (b) The title or possession of the coal is transferred back to the owner or operator of the power plant after completion of the coal refining process. For the purposes of this subdivision, "coal refining process" means the application of a coal additive system that aids the reduction of power plant emissions during the combustion of coal and the treatment of flue gas.
55. Tangible personal property incorporated or fabricated into a project described in section 42-5075, subsection 0, that is located within the exterior boundaries of an Indian reservation for which the owner, as defined in section 42-5075, of the project is an Indian tribe or an affiliated Indian. For the purposes of this paragraph:

(a) "Affiliated Indian" means an individual Native American Indian who is duly registered on the tribal rolls of the Indian tribe for whose benefit the Indian reservation was established.

(b) "Indian reservation" means all lands that are within the limits of areas set aside by the United States for the exclusive use and occupancy of an Indian tribe by treaty, law or executive order and that are recognized as Indian reservations by the United States department of the interior.

(c) "Indian tribe" means any organized nation, tribe, band or community that is recognized as an Indian tribe by the United States department of the interior and includes any entity formed under the laws of the Indian tribe.

56. Cash equivalents, precious metal bullion and monetized bullion purchased by the ultimate consumer, but coins or other forms of money for manufacture into jewelry or works of art are subject to tax, and tangible personal property that is purchased through the redemption of any cash equivalent by the holder as a means of payment for goods that are subject to tax under this article is subject to tax. For the purposes of this paragraph:

(a) "Cash equivalents" means items, whether or not negotiable, that are sold to one or more persons, through which a value denominated in money is purchased in advance and that may be redeemed in full or in part for tangible personal property, intangibles or services. Cash equivalents include gift cards, stored value cards, gift certificates, vouchers, traveler's checks, money orders or other tangible instruments or orders. Cash equivalents do not include either of the following:

(i) Items that are sold to one or more persons and through which a value is not denominated in money.

(ii) Prepaid calling cards for telecommunications services.

(b) "Monetized bullion" means coins and other forms of money that are manufactured from gold, silver or other metals and that have been or are used as a medium of exchange in this or another state, the United States or a foreign nation.

(c) "Precious metal bullion" means precious metal, including gold, silver, platinum, rhodium and palladium, that has been smelted or refined so that its value depends on its contents and not on its form.

B. In addition to the exemptions allowed by subsection A of this section, the following categories of tangible personal property are also exempt:

1. Machinery, or equipment, used directly in manufacturing, processing, fabricating, job printing, refining or metallurgical operations. The terms "manufacturing", "processing", "fabricating", "job printing", "refining" and "metallurgical" as used in this paragraph refer to and include those operations commonly understood within their ordinary meaning. "Metallurgical operations" includes leaching, milling, precipitating, smelting and refining.
2. Machinery, or equipment, used directly in the process of extracting ores or minerals from the earth for commercial purposes, including equipment required to prepare the materials for extraction and handling, loading or transporting such extracted material to the surface. "Mining" includes underground, surface and open pit operations for extracting ores and minerals.

3. Tangible personal property sold to persons engaged in business classified under the telecommunications classification under section 42-5064, including a person representing or working on behalf of such a person in a manner described in section 42-5075, subsection 0, and consisting of central office switching equipment, switchboards, private branch exchange equipment, microwave radio equipment and carrier equipment including optical fiber, coaxial cable and other transmission media that are components of carrier systems.

4. Machinery, equipment or transmission lines used directly in producing or transmitting electrical power, but not including distribution. Transformers and control equipment used at transmission substation sites constitute equipment used in producing or transmitting electrical power.

5. MACHINERY AND EQUIPMENT USED DIRECTLY FOR ENERGY STORAGE FOR LATER ELECTRICAL USE. FOR THE PURPOSES OF THIS PARAGRAPH:
   (a) "ELECTRIC UTILITY SCALE" MEANS A PERSON THAT IS ENGAGED IN A BUSINESS ACTIVITY DESCRIBED IN SECTION 42-5063, SUBSECTION A OR SUCH PERSON'S EQUIPMENT OR WHOLESALE ELECTRICITY SUPPLIERS.
   (b) "ENERGY STORAGE" MEANS COMMERCIAL AVAILABLE TECHNOLOGY FOR ELECTRIC UTILITY SCALE THAT IS CAPABLE OF ABSORBING ENERGY, STORING ENERGY FOR A PERIOD OF TIME AND THEREAFTER DISPATCHING THE ENERGY AND THAT USES MECHANICAL, CHEMICAL OR THERMAL PROCESSES TO STORE ENERGY.
   (c) "MACHINERY AND EQUIPMENT USED DIRECTLY" MEANS ALL MACHINERY AND EQUIPMENT THAT ARE USED FOR ELECTRIC ENERGY STORAGE FROM THE POINT OF RECEIPT OF SUCH ENERGY IN ORDER TO FACILITATE STORAGE OF THE ELECTRIC ENERGY TO THE POINT WHERE THE ELECTRIC ENERGY IS RELEASED.

6. Neat animals, horses, asses, sheep, ratites, swine or goats used or to be used as breeding or production stock, including sales of breedings or ownership shares in such animals used for breeding or production.

7. Pipes or valves four inches in diameter or larger used to transport oil, natural gas, artificial gas, water or coal slurry, including compressor units, regulators, machinery and equipment, fittings, seals and any other part that is used in operating the pipes or valves.

8. Aircraft, navigational and communication instruments and other accessories and related equipment sold to:
   (a) A person:
      (i) Holding, or exempted by federal law from obtaining, a federal certificate of public convenience and necessity for use as, in conjunction with or becoming part of an aircraft to be used to transport persons for hire in intrastate, interstate or foreign commerce.
      (ii) That is certificated or licensed under federal aviation administration regulations (14 Code of Federal Regulations part 121 or 135) as a scheduled or unscheduled carrier of persons for hire for use as or in
conjunction with or becoming part of an aircraft to be used to transport persons for hire in intrastate, interstate or foreign commerce.

(iii) Holding a foreign air carrier permit for air transportation for use as or in conjunction with or becoming a part of aircraft to be used to transport persons, property or United States mail in intrastate, interstate or foreign commerce.

(iv) Operating an aircraft to transport persons in any manner for compensation or hire, or for use in a fractional ownership program that meets the requirements of federal aviation administration regulations (14 Code of Federal Regulations part 91, subpart K), including as an air carrier, a foreign air carrier or a commercial operator or under a restricted category, within the meaning of 14 Code of Federal Regulations, regardless of whether the operation or aircraft is regulated or certified under part 91, 119, 121, 133, 135, 136 or 137, or another part of 14 Code of Federal Regulations.

(v) That will lease or otherwise transfer operational control, within the meaning of federal aviation administration operations specification A008, or its successor, of the aircraft, instruments or accessories to one or more persons described in item (i), (ii), (iii) or (iv) of this subdivision, subject to section 42-5009, subsection Q.

(b) Any foreign government.

(c) Persons who are not residents of this state and who will not use such property in this state other than in removing such property from this state. This subdivision also applies to corporations that are not incorporated in this state, regardless of maintaining a place of business in this state, if the principal corporate office is located outside this state and the property will not be used in this state other than in removing the property from this state.

8- 9. Machinery, tools, equipment and related supplies used or consumed directly in repairing, remodeling or maintaining aircraft, aircraft engines or aircraft component parts by or on behalf of a certificated or licensed carrier of persons or property.

9- 10. Rolling stock, rails, ties and signal control equipment used directly to transport persons or property.

10- 11. Machinery or equipment used directly to drill for oil or gas or used directly in the process of extracting oil or gas from the earth for commercial purposes.

11- 12. Buses or other urban mass transit vehicles that are used directly to transport persons or property for hire or pursuant to a governementally adopted and controlled urban mass transportation program and that are sold to bus companies holding a federal certificate of convenience and necessity or operated by any city, town or other governmental entity or by any person contracting with such governmental entity as part of a governementally adopted and controlled program to provide urban mass transportation.


13- 14. New machinery and equipment consisting of agricultural aircraft, tractors, tractor-drawn implements, self-powered implements, machinery and equipment necessary for extracting milk, and machinery and
equipment necessary for cooling milk and livestock, and drip irrigation
lines not already exempt under paragraph 6-7 of this subsection and that
are used for commercial production of COMMERCIAL PRODUCING agricultural,
horticultural, viticultural and floricultural crops and products in this
state. For the purposes of this paragraph:
(a) "New machinery and equipment" means machinery or equipment that
has never been sold at retail except pursuant to leases or rentals that do
not total two years or more.
(b) "Self-powered implements" includes machinery and equipment that
are electric-powered.
14. 15. Machinery or equipment used in research and
development. For the purposes of this paragraph, "research and development"
means basic and applied research in the sciences and engineering, and
designing, developing or testing prototypes, processes or new products,
including research and development of computer software that is embedded in
or an integral part of the prototype or new product or that is required for
machinery or equipment otherwise exempt under this section to function
effectively. Research and development do not include manufacturing quality
control, routine consumer product testing, market research, sales promotion,
sales service, research in social sciences or psychology, computer software
research that is not included in the definition of research and development,
or other nontechnological activities or technical services.
15. 16. Tangible personal property that is used by either of the
following to receive, store, convert, produce, generate, decode, encode,
control or transmit telecommunications information:
(a) Any direct broadcast satellite television or data transmission
service that operates pursuant to 47 Code of Federal Regulations part 25.
(b) Any satellite television or data transmission facility, if both
of the following conditions are met:
(i) Over two-thirds of the transmissions, measured in megabytes,
transmitted by the facility during the test period were transmitted to or
on behalf of one or more direct broadcast satellite television or data
transmission services that operate pursuant to 47 Code of Federal
Regulations part 25.
(ii) Over two-thirds of the transmissions, measured in megabytes,
transmitted by or on behalf of those direct broadcast television or data
transmission services during the test period were transmitted by the
facility to or on behalf of those services.
For the purposes of subdivision (b) of this paragraph, "test period" means
the three hundred sixty-five day period beginning on the later of the date
on which the tangible personal property is purchased or the date on which
the direct broadcast satellite television or data transmission service first
transmits information to its customers.
16. 17. Clean rooms that are used for manufacturing, processing,
fabrication or research and development, as defined in paragraph 14 15 of
this subsection, of semiconductor products. For the purposes of this
paragraph, "clean room" means all property that comprises or creates an
environment where humidity, temperature, particulate matter and
contamination are precisely controlled within specified parameters, without
regard to whether the property is actually contained within that environment
or whether any of the property is affixed to or incorporated into real property. Clean room:

(a) Includes the integrated systems, fixtures, piping, movable partitions, lighting and all property that is necessary or adapted to reduce contamination or to control airflow, temperature, humidity, chemical purity or other environmental conditions or manufacturing tolerances, as well as the production machinery and equipment operating in conjunction with the clean room environment.

(b) Does not include the building or other permanent, nonremovable component of the building that houses the clean room environment.

17. 18. Machinery and equipment that are used directly in the feeding of poultry, the environmental control of ENVIRONMENTALLY CONTROLLING housing for poultry, the movement of MOVING eggs within a production and packaging facility or the sorting or cooling of eggs. This exemption does not apply to vehicles used for transporting eggs.

18. 19. Machinery or equipment, including related structural components AND CONTAINMENT STRUCTURES, that is employed in connection with manufacturing, processing, fabricating, job printing, refining, mining, natural gas pipelines, metallurgical operations, telecommunications, producing or transmitting electricity or research and development and that is used directly to meet or exceed rules or regulations adopted by the federal energy regulatory commission, the United States environmental protection agency, the United States nuclear regulatory commission, the Arizona department of environmental quality or a political subdivision of this state to prevent, monitor, control or reduce land, water or air pollution.

19. 20. Machinery and equipment that are used in the commercial production of COMMERCIALLY PRODUCING livestock, livestock products or agricultural, horticultural, viticultural or floricultural crops or products in this state, including production by a person representing or working on behalf of such a person in a manner described in section 42-5075, subsection 0, if the machinery and equipment are used directly and primarily to prevent, monitor, control or reduce air, water or land pollution.

20. 21. Machinery or equipment that enables a television station to originate and broadcast or to receive and broadcast digital television signals and that was purchased to facilitate compliance with the telecommunications act of 1996 (P.L. 104-104; 110 Stat. 56; 47 United States Code section 336) and the federal communications commission order issued April 21, 1997 (47 Code of Federal Regulations part 73). This paragraph does not exempt any of the following:

(a) Repair or replacement parts purchased for the machinery or equipment described in this paragraph.

(b) Machinery or equipment purchased to replace machinery or equipment for which an exemption was previously claimed and taken under this paragraph.

(c) Any machinery or equipment purchased after the television station has ceased analog broadcasting, or purchased after November 1, 2009, whichever occurs first.

21. 22. Qualifying equipment that is purchased from and after June 30, 2004 through June 30, 2024 by a qualified business under section 41-1515
for harvesting or processing qualifying forest products removed from qualifying projects as defined in section 41-1516. To qualify for this exemption, the qualified business must obtain and present its certification from the Arizona commerce authority at the time of purchase.

22- 23. Machinery, equipment, materials and other tangible personal property used directly and predominantly to construct a qualified environmental technology manufacturing, producing or processing facility as described in section 41-1514.02. This paragraph applies for ten full consecutive calendar or fiscal years after the start of initial construction.

24. COMPUTER DATA CENTER EQUIPMENT SOLD TO THE OWNER, OPERATOR OR QUALIFIED COLOCATION TENANT OF A COMPUTER DATA CENTER THAT IS CERTIFIED BY THE ARIZONA COMMERCE AUTHORITY UNDER SECTION 41-1519 OR AN AUTHORIZED AGENT OF THE OWNER, OPERATOR OR QUALIFIED COLOCATION TENANT DURING THE QUALIFICATION PERIOD FOR USE IN THE QUALIFIED COMPUTER DATA CENTER. FOR THE PURPOSES OF THIS PARAGRAPH, "COMPUTER DATA CENTER", "COMPUTER DATA CENTER EQUIPMENT", "QUALIFICATION PERIOD" AND "QUALIFIED COLOCATION TENANT" HAVE THE SAME MEANINGS PRESCRIBED IN SECTION 41-1519.

C. The exemptions provided by subsection B of this section do not include:
   1. Expendable materials. For the purposes of this paragraph, expendable materials do not include any of the categories of tangible personal property specified in subsection B of this section regardless of the cost or useful life of that property.
   2. Janitorial equipment and hand tools.
   3. Office equipment, furniture and supplies.
   4. Tangible personal property used in selling or distributing activities, other than the telecommunications transmissions described in subsection B, paragraph 15 of this section.
   5. Motor vehicles required to be licensed by this state, except buses or other urban mass transit vehicles specifically exempted pursuant to subsection B, paragraph 12 of this section, without regard to the use of such motor vehicles.
   6. Shops, buildings, docks, depots and all other materials of whatever kind or character not specifically included as exempt.
   7. Motors and pumps used in drip irrigation systems.
   8. Machinery and equipment or tangible personal property used by a contractor in the performance of PERFORMING a contract.

D. The following shall be deducted in computing the purchase price of electricity by a retail electric customer from a utility business:
   1. Revenues received from sales of ancillary services, electric distribution services, electric generation services, electric transmission services and other services related to providing electricity to a retail electric customer who is located outside this state for use outside this state if the electricity is delivered to a point of sale outside this state.
   2. Revenues received from providing electricity, including ancillary services, electric distribution services, electric generation services, electric transmission services and other services related to providing electricity with respect to which the transaction privilege tax imposed under section 42-5063 has been paid.
E. The tax levied by this article does not apply to the purchase of solar energy devices from a retailer that is registered with the department as a solar energy retailer or a solar energy contractor.

F. The following shall be deducted in computing the purchase price of electricity by a retail electric customer from a utility business:

1. Fees charged by a municipally owned utility to persons constructing residential, commercial or industrial developments or connecting residential, commercial or industrial developments to a municipal utility system or systems if the fees are segregated and used only for capital expansion, system enlargement or debt service of the utility system or systems.

2. Reimbursement or contribution compensation to any person or persons owning a utility system for property and equipment installed to provide utility access to, on or across the land of an actual utility consumer if the property and equipment become the property of the utility. This deduction shall not exceed the value of such property and equipment.

G. The tax levied by this article does not apply to the purchase price of electricity, natural gas, or liquefied petroleum gas by:

1. A qualified manufacturing or smelting business. A utility that claims this deduction shall report each month, on a form prescribed by the department, the name and address of each qualified manufacturing or smelting business for which this deduction is taken. This paragraph applies to gas transportation services. For the purposes of this paragraph:

   (a) "Gas transportation services" means the services of transporting natural gas to a natural gas customer or to a natural gas distribution facility if the natural gas was purchased from a supplier other than the utility.

   (b) "Manufacturing" means the performance as a business of an integrated series of operations that places tangible personal property in a form, composition or character different from that in which it was acquired and transforms it into a different product with a distinctive name, character or use. Manufacturing does not include job printing, publishing, packaging, mining, generating electricity or operating a restaurant.

   (c) "Qualified manufacturing or smelting business" means one of the following:

      (i) A business that manufactures or smelts tangible products in this state, of which at least fifty-one percent of the manufactured or smelted products will be exported out of state for incorporation into another product or sold out of state for a final sale.

      (ii) A business that derives at least fifty-one percent of its gross income from the sale of manufactured or smelted products manufactured or smelted by the business.

      (iii) A business that uses at least fifty-one percent of its square footage in this state for manufacturing or smelting and business activities directly related to manufacturing or smelting.

      (iv) A business that employs at least fifty-one percent of its workforce in this state in manufacturing or smelting and business activities directly related to manufacturing or smelting.

      (v) A business that uses at least fifty-one percent of the value of its capitalized assets in this state, as reflected on the business's books
and records, for manufacturing or smelting and business activities directly related to manufacturing or smelting.

(d) "Smelting" means to melt or fuse a metalliferous mineral, often with an accompanying chemical change, usually to separate the metal.

2. A business that operates an international operations center in this state and that is certified by the Arizona commerce authority pursuant to section 41-1520.

H. A city or town may exempt proceeds from sales of paintings, sculptures or similar works of fine art if such works of fine art are sold by the original artist. For the purposes of this subsection, fine art does not include an art creation such as jewelry, macrame, glasswork, pottery, woodwork, metalwork, furniture or clothing if the art creation has a dual purpose, both aesthetic and utilitarian, whether sold by the artist or by another person.

I. For the purposes of subsection B of this section:

1. "Agricultural aircraft" means an aircraft that is built for agricultural use for the aerial application of pesticides or fertilizer or for aerial seeding.

2. "Aircraft" includes:
(a) An airplane flight simulator that is approved by the federal aviation administration for use as a phase II or higher flight simulator under appendix H, 14 Code of Federal Regulations part 121.
(b) Tangible personal property that is permanently affixed or attached as a component part of an aircraft that is owned or operated by a certificated or licensed carrier of persons or property.

3. "Other accessories and related equipment" includes aircraft accessories and equipment such as ground service equipment that physically contact aircraft at some point during the overall carrier operation.

J. For the purposes of subsection D of this section, "ancillary services", "electric distribution service", "electric generation service", "electric transmission service" and "other services" have the same meanings prescribed in section 42-5063.
EXPLANATION OF BLEND
SECTION 42-6017

Laws 2021, Chapters 266 and 443

Laws 2021, Ch. 266, section 7
Effectively September 29, 2021
(Retroactive to September 13, 2013)

Laws 2021, Ch. 443, section 5
Effectively September 29, 2021

Explanation

Since these two enactments are compatible, the Laws 2021, Ch. 266 and Ch. 443 text changes to section 42-6017 are blended in the form shown on the following pages.
42-6017. **Municipal taxation of businesses selling tangible personal property at retail; state preemption; exceptions; definitions**

A. Except as provided in this section, section 42-5061 supersedes all city or town ordinances or other local laws insofar as the ordinances or local laws now or hereafter relate to the taxation of business activities classified under section 42-5061.

B. The municipal tax rate for businesses selling tangible personal property at retail for marketplace facilitators is the municipal tax rate that is in effect in the city or town for businesses selling tangible personal property at retail on September 30, 2019, until the city or town changes the tax rate.

C. A city or town may:
   1. Notwithstanding section 42-5061, subsection A, paragraph 15, levy a transaction privilege tax on the gross proceeds of sales or gross income derived from the business of selling food at retail by the persons described in section 42-5102, subsection A, subject to the conditions of sections 42-5074, 42-5101 and 42-6015.
   2. Notwithstanding section 42-5061, subsection A, paragraph 17, levy a transaction privilege tax on the gross proceeds of sales or gross income derived from a bookstore selling textbooks that are required by any state university or community college.
   3. Notwithstanding section 42-5061, subsection A, paragraph 33, paragraph 42, subdivision (b) and paragraph 43 and subsection B, paragraph 5, continue to levy an existing transaction privilege tax that was levied on or before May 1, 2019 on the gross proceeds of sales or gross income derived from the sales of:
      (a) Propagative materials to persons who use those items to commercially produce agricultural, horticultural, viticultural or floricultural crops in this state. This subdivision does not apply and a city or town may not continue to levy a transaction privilege tax pursuant to this subdivision as follows:
         (i) For a city or town with a population of fifty thousand persons or less, from and after June 30, 2021.
         (ii) For a city or town with a population of more than fifty thousand persons, from and after December 31, 2019.
      (b) Livestock and poultry feed, salts, vitamins and other additives for livestock or poultry consumption that are sold to persons for use or consumption by their own livestock or poultry, for use or consumption in the businesses of farming, ranching and producing or feeding livestock, poultry, or livestock or poultry products or for use or consumption in noncommercial boarding of livestock.
(c) Implants used as growth promotants and injectable medicines, not
already exempt under section 42-5061, subsection A, paragraph 8, for
livestock or poultry owned by or in possession of persons who are engaged in
producing livestock, poultry, or livestock or poultry products or who are
engaged in feeding livestock or poultry commercially. This subdivision does
not apply and a city or town may not continue to levy a transaction privilege
tax pursuant to this subdivision as follows:

(i) For a city or town with a population of fifty thousand persons or
less, from and after June 30, 2021.

(ii) For a city or town with a population of more than fifty thousand
persons, from and after December 31, 2019.

(d) Neat animals, horses, asses, sheep, ratites, swine or goats used
or to be used as breeding or production stock, including sales of breedings
or ownership shares in such animals used for breeding or production. This
subdivision does not apply and a city or town may not continue to levy a
transaction privilege tax pursuant to this subdivision as follows:

(i) For a city or town with a population of fifty thousand persons or
less, from and after June 30, 2021.

(ii) For a city or town with a population of more than fifty thousand
persons, from and after December 31, 2019.

4. Levy a transaction privilege tax on the gross proceeds of sales or
gross income derived from the sale of nonmetalliferous mined materials at
retail.

5. Notwithstanding section 42-5061, subsection A, paragraph 60 59,
levy a transaction privilege tax on the gross proceeds of sales or gross
income derived from the sale of works of fine art, as defined in section
44-1771, at an art auction or gallery in this state to nonresidents of this
state for use outside this state if the vendor ships or delivers the work of
fine art to a destination outside this state.

6. Notwithstanding section 42-5061, subsection A, paragraph 28 OR
SECTION 42-5122, levy a transaction privilege tax on the gross proceeds of
sales or gross income derived from the sale of a motor vehicle to:

(a) A nonresident of this state if the purchaser's state of residence
does not allow a corresponding use tax exemption to the tax imposed by
chapter 5, article 1 of this title and if the nonresident has secured a
special ninety day nonresident registration permit for the vehicle as
prescribed by sections 28-2154 and 28-2154.01. This subdivision does not
apply if the purchaser takes possession of the vehicle outside of this state.

(b) An enrolled member of an Indian tribe who resides on the Indian
reservation established for that tribe, except if possession of the vehicle
is received on the enrolled member's Indian reservation.

7. Exempt from transaction privilege, sales, use or other similar tax
the sale of paintings, sculptures or similar works of fine art, if such works
of fine art are sold by the original artist. For the purposes of this
paragraph, fine art does not include an art creation such as jewelry,
macramé, glasswork, pottery, woodworking, metalwork, furniture or clothing if
the art creation has a dual purpose, both aesthetic and utilitarian, whether
sold by the artist or by another person.
D. For the purposes of this section:
   1. "Food" has the same meaning prescribed by rule adopted by the department pursuant to section 42-5106.
   2. "Marketplace facilitator" has the same meaning prescribed in section 42-5001.
   3. "Poultry" includes ratites.
   4. "Propagative materials":
      (a) Includes seeds, seedlings, roots, bulbs, liners, transplants, cuttings, soil and plant additives, agricultural minerals, auxiliary soil and plant substances, micronutrients, fertilizers, insecticides, herbicides, fungicides, soil fumigants, desiccants, rodenticides, adjuvants, plant nutrients and plant growth regulators.
      (b) Except for use in commercially producing industrial hemp as defined in section 3-311, does not include any propagative materials used in producing any part, including seeds, of any plant of the genus cannabis.
   5. "Remote seller" has the same meaning prescribed in section 42-5001.
EXPLANATION OF BLEND
SECTION 43-222

Laws 2021, Chapters 196, 383, 412 and 425

Laws 2021, Ch. 196, section 10                      Effective September 29, 2021
Laws 2021, Ch. 383, section 1                      Effective September 29, 2021
(Retroactive to January 1, 2020)
Laws 2021, Ch. 412, section 12                      Effective September 29, 2021
Laws 2021, Ch. 425, section 1                      Effective January 1, 2022

Explanation

Since these four enactments are compatible, the Laws 2021, Ch. 196, Ch. 383, Ch. 412
and Ch. 425 text changes to section 43-222 are blended effective from and after December
31, 2021 in the form shown on the following page.
BLEND OF SECTION 43-222
Laws 2021, Chapters 196, 383, 412 and 425

43-222. Income tax credit review schedule
The joint legislative income tax credit review committee shall review the following income tax credits:

1. For years ending in 0 and 5, sections 43-1079.01, 43-1087, 43-1088, 43-1089.04, 43-1167.01 and 43-1175.
2. For years ending in 1 and 6, sections 43-1072.02, 43-1074.02.

Ch. 196 — 43-1076.01,

Ch. 412 — 43-1077,

Ch. 412 — 43-1083, 43-1083.02, [43-1162] 43-1164.03 and 43-1183.

3. For years ending in 2 and 7, sections 43-1073, 43-1085, 43-1086, 43-1089, 43-1089.01, 43-1089.02, 43-1089.03, 43-1164, 43-1169 AND 43-1181.

4. For years ending in 3 and 8, sections 43-1074.01, 43-1081, 43-1168, 43-1170 and 43-1178.

5. For years ending in 4 and 9, sections 43-1073.01, 43-1076, 43-1081.01, 43-1083.03, 43-1084, 43-1164.04, 43-1164.05, and 43-1184.
EXPLANATION OF BLEND
SECTION 43-581

Laws 2021, Chapters 412 and 425

Laws 2021, Ch. 412, section 14  Effective September 29, 2021
Laws 2021, Ch. 425, section 2  Effective January 1, 2022

Explanation

Since these two enactments are compatible, the Laws 2021, Ch. 412 and Ch. 425 text changes to section 43-581 are blended effective from and after December 31, 2021 in the form shown on the following page.
43-581. Payment of estimated tax; rules; penalty; forms

A. An individual who is subject to the tax imposed by this title and whose Arizona gross income, as defined by section 43-1001, or as described by section 43-1091 in the case of nonresidents, for the taxable year exceeds seventy-five thousand dollars $75,000 or one hundred fifty thousand dollars $150,000 if a joint return is filed and whose Arizona gross income was greater than seventy-five thousand dollars $75,000 in the preceding taxable year or one hundred fifty thousand dollars $150,000 in the preceding taxable year if a joint return is filed shall make payments of estimated tax during the individual's taxable year. The amount of the payments of estimated tax shall be an amount that reasonably reflects a taxpayer's Arizona income tax liability that will be unpaid at the end of the taxpayer's taxable year. This amount shall be paid in four installments on or before the due dates established by the internal revenue code and shall total, when combined with the taxpayer's withholding tax, at least ninety percent of the tax due for the current taxable year or one hundred percent of the tax due for the preceding taxable year.

B. Any other individual who is subject to the tax imposed by this title may make payments of estimated tax during the individual's taxable year. The amount of any estimated tax payments for the taxable year shall be an amount that reasonably reflects a taxpayer's Arizona income tax liability that will be unpaid at the end of the taxpayer's taxable year.

C. FOR TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2021, AN ENTITY THAT IS TREATED AS A PARTNERSHIP OR S CORPORATION FOR FEDERAL INCOME TAX PURPOSES, THAT ELECTS TO PAY THE TAX UNDER SECTION 43-1014 AND WHOSE TAXABLE INCOME FOR THE TAXABLE YEAR EXCEEDS $150,000 IN THE PRECEDING TAXABLE YEAR SHALL MAKE PAYMENTS OF ESTIMATED TAX DURING THE TAXABLE YEAR IN A MANNER THAT IS CONSISTENT WITH THE MANNER PRESCRIBED IN THIS SECTION FOR INDIVIDUALS.

D. The department shall prescribe rules for the payments of estimated tax that shall provide for estimated payments in a manner similar to the manner prescribed in the internal revenue code.

E. If the taxpayer does not pay the estimated tax required by subsection A OR C of this section on or before the prescribed dates, there is assessed and the department shall collect a penalty on the unpaid amount as prescribed by section 42-1125, subsection Q. Penalties or interest shall NOT be assessed or collected if either of the following applies:

1. The estimated tax payments made pursuant to this section are allowable exceptions under section 6654 of the internal revenue code.

2. The taxpayer's Arizona income tax liability due on the taxpayer's return is less than one thousand dollars $1,000. For the purposes of this paragraph, "Arizona income tax liability due on the taxpayer's return" means the amount of tax due on the return minus the amount of Arizona income tax withheld and tax credits claimed by the taxpayer.

F. The department shall make available suitable forms and instructions to taxpayers who make estimated tax payments pursuant to this article.
EXPLANATION OF BLEND
SECTION 43-1021

Laws 2021, Chapters 196 and 425

Laws 2021, Ch. 196, section 13  Effective September 29, 2021

Laws 2021, Ch. 425, section 4  Effective January 1, 2022

Explanation

Since these two enactments are compatible, the Laws 2021, Ch. 196 and Ch. 425 text changes to section 43-1021 are blended effective from and after December 31, 2021 in the form shown on the following pages.
43-1021. Addition to Arizona gross income

In computing Arizona adjusted gross income, the following amounts shall be added to Arizona gross income:

1. A beneficiary’s share of the fiduciary adjustment to the extent that the amount determined by section 43-1333 increases the beneficiary's Arizona gross income.

2. An amount equal to the ordinary income portion of a lump sum distribution that was excluded from federal adjusted gross income pursuant to the special rule for individuals who attained fifty years of age before January 1, 1986 under Public Law 99-514, section 1122(h)(3).

3. The amount of interest income received on obligations of any state, territory or possession of the United States, or any political subdivision thereof, located outside the state of Arizona, reduced, for taxable years beginning from and after December 31, 1996, by the amount of any interest on indebtedness and other related expenses that were incurred or continued to purchase or carry those obligations and that are not otherwise deducted or subtracted in arriving at Arizona gross income.

4. The excess of a partner's share of partnership taxable income required to be included under chapter 14, article 2 of this title over the income required to be reported under section 702(a)(8) of the internal revenue code.

5. The excess of a partner's share of partnership losses determined pursuant to section 702(a)(8) of the internal revenue code over the losses allowable under chapter 14, article 2 of this title.

6. Any amount of agricultural water conservation expenses that were deducted pursuant to the internal revenue code for which a credit is claimed under section 43-1084.

7. The amount by which the depreciation or amortization computed under the internal revenue code with respect to property for which a credit was taken under either section 43-1081 or 43-1081.01 exceeds the amount of depreciation or amortization computed pursuant to the internal revenue code on the Arizona adjusted basis of the property.

8. The amount by which the adjusted basis computed under the internal revenue code with respect to property for which a credit was claimed under section 43-1074.02, 43-1081 or 43-1081.01 and that is sold or otherwise disposed of during the taxable year exceeds the adjusted basis of the property computed under section 43-1074.02, 43-1081 or 43-1081.01, as applicable.

9. The deduction referred to in section 1341(a)(4) of the internal revenue code for restoration of a substantial amount held under a claim of right.

10. The amount by which a net operating loss carryover or capital loss carryover allowable pursuant to section 1341(b)(5) of the internal revenue
code exceeds the net operating loss carryover or capital loss carryover allowable pursuant to section 43-1029, subsection F.

11. Any wage expenses deducted pursuant to the internal revenue code for which a credit is claimed under section 43-1037 and representing net increases in qualified employment positions for employment of temporary assistance for needy families recipients.

12. 11. The amount of any depreciation allowance allowed pursuant to section 167(a) of the internal revenue code to the extent not previously added.

13. 12. The amount of a nonqualified withdrawal, as defined in section 15-1871, from a college savings plan established pursuant to section 529 of the internal revenue code that is made to a distributee to the extent the amount is not included in computing federal adjusted gross income, except that the amount added under this paragraph shall not exceed the difference between the amount subtracted under section 43-1022 in prior taxable years and the amount added under this section in any prior taxable years.

14. 13. If a subtraction is or has been taken by the taxpayer under section 43-1024, in the current or a prior taxable year for the full amount of eligible access expenditures paid or incurred to comply with the requirements of the Americans with disabilities act of 1990 (P.L. 101-336) or title 41, chapter 9, article 8, any amount of eligible access expenditures that is recognized under the internal revenue code, including any amount that is amortized according to federal amortization schedules, and that is included in computing taxable income for the current taxable year.

15. 14. For taxable years beginning from and after December 31, 2017, the amount of any net capital loss included in Arizona gross income for the taxable year that is derived from the exchange of one kind of legal tender for another kind of legal tender. For the purposes of this paragraph:

(a) "Legal tender" means a medium of exchange, including specie, that is authorized by the United States Constitution or Congress to pay debts, public charges, taxes and dues.

(b) "Specie" means coins having precious metal content.

15. FOR TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2021, THE AMOUNT DEDUCTED BY THE PARTNERSHIP OR S CORPORATION PURSUANT TO THE INTERNAL REVENUE CODE FOR THE AMOUNT PAID TO THIS STATE UNDER SECTION 43-1014 AND FOR TAXES THAT THE DEPARTMENT DETERMINES ARE SUBSTANTIALLY SIMILAR TO THE TAX IMPOSED UNDER SECTION 43-1014. THIS AMOUNT SHALL BE REFLECTED IN THE PARTNER'S OR SHAREHOLDER'S ARIZONA GROSS INCOME AND THE PARTNERSHIP'S OR S CORPORATION'S ARIZONA TAXABLE INCOME.
EXPLANATION OF BLEND
SECTION 43-1022

Laws 2021, Chapters 196, 395 and 412

Laws 2021, Ch. 196, section 14  Effective September 29, 2021
Laws 2021, Ch. 395, section 1  Effective September 29, 2021
(Retroactive to January 1, 2021)
Laws 2021, Ch. 412, section 16  Effective September 29, 2021
(Retroactive to January 1, 2021)

Explanation

Since these three enactments are compatible, the Laws 2021, Ch. 196, Ch. 395 and Ch. 412 text changes to section 43-1022 are blended in the form shown on the following pages.
43-1022. **Subtractions from Arizona gross income**

In computing Arizona adjusted gross income, the following amounts shall be subtracted from Arizona gross income:

1. The amount of exemptions allowed by section 43-1023.
2. Benefits, annuities and pensions in an amount totaling not more than $2,500 received from one or more of the following:
   (a) The United States government service retirement and disability fund, the United States foreign service retirement and disability system and any other retirement system or plan established by federal law, except retired or retainer pay of the uniformed services of the United States that qualifies for a subtraction under paragraph 27 26 of this section.
   (b) The Arizona state retirement system, the corrections officer retirement plan, the public safety personnel retirement system, the elected officials' retirement plan, an optional retirement program established by the Arizona board of regents under section 15-1628, an optional retirement program established by a community college district board under section 15-1451 or a retirement plan established for employees of a county, city or town in this state.
3. A beneficiary's share of the fiduciary adjustment to the extent that the amount determined by section 43-1333 decreases the beneficiary's Arizona gross income.
4. Interest income received on obligations of the United States, minus any interest on indebtedness, or other related expenses, and deducted in arriving at Arizona gross income, that were incurred or continued to purchase or carry such obligations.
5. The excess of a partner's share of income required to be included under section 702(a)(B) of the internal revenue code over the income required to be included under chapter 14, article 2 of this title.
6. The excess of a partner's share of partnership losses determined pursuant to chapter 14, article 2 of this title over the losses allowable under section 702(a)(B) of the internal revenue code.
7. The amount allowed by section 43-1025 for contributions during the taxable year of agricultural crops to charitable organizations.
8. The portion of any wages or salaries paid or incurred by the taxpayer for the taxable year that is equal to the amount of the federal work opportunity credit, the empowerment zone employment credit, the credit for employer paid social security taxes on employee cash tips and the Indian employment credit that the taxpayer received under sections 45A, 45B, 51(a) and 1396 of the internal revenue code.
9. The amount of exploration expenses that is determined pursuant to section 617 of the internal revenue code, that has been deferred in a taxable year ending before January 1, 1990 and for which a subtraction has not
previously been made. The subtraction shall be made on a ratable basis as the units of produced ores or minerals discovered or explored as a result of this exploration are sold.

10. The amount included in federal adjusted gross income pursuant to section 86 of the internal revenue code, relating to taxation of social security and railroad retirement benefits.

11. To the extent not already excluded from Arizona gross income under the internal revenue code, compensation received for active service as a member of the reserves, the national guard or the armed forces of the United States, including compensation for service in a combat zone as determined under section 112 of the internal revenue code.

12. The amount of unreimbursed medical and hospital costs, adoption counseling, legal and agency fees and other nonrecurring costs of adoption not to exceed $3,000. In the case of a husband and wife who file separate returns, the subtraction may be taken by either taxpayer or may be divided between them, but the total subtractions allowed both husband and wife MAY not exceed $3,000. The subtraction under this paragraph may be taken for the costs that are described in this paragraph and that are incurred in prior years, but the subtraction may be taken only in the year during which the final adoption order is granted.

13. The amount authorized by section 43-1027 for the taxable year relating to qualified wood stoves, wood fireplaces or gas fired fireplaces.

14. The amount by which a net operating loss carryover or capital loss carryover allowable pursuant to section 43-1029, subsection F exceeds the net operating loss carryover or capital loss carryover allowable pursuant to section 1341(b)(5) of the internal revenue code.

15. Any amount of qualified educational expenses that is distributed from a qualified state tuition program determined pursuant to section 529 of the internal revenue code and that is included in income in computing federal adjusted gross income.

16. Any item of income resulting from an installment sale that has been properly subjected to income tax in another state in a previous taxable year and that is included in Arizona gross income in the current taxable year.

17. The amount authorized by section 43-1030 relating to holocaust survivors.

18. 17. For property placed in service:

(a) In taxable years beginning before December 31, 2012, an amount equal to the depreciation allowable pursuant to section 167(a) of the internal revenue code for the taxable year computed as if the election described in section 168(k) of the internal revenue code had been made for each applicable class of property in the year the property was placed in service.

(b) In taxable years beginning from and after December 31, 2012 through December 31, 2013, an amount determined in the year the asset was placed in service based on the calculation in subdivision (a) of this paragraph. In the first taxable year beginning from and after December 31, 2013, the taxpayer may elect to subtract the amount necessary to make the depreciation claimed to date for the purposes of this title the same as it would have been if subdivision (c) of this paragraph had applied for the
entire time the asset was in service. Subdivision (c) of this paragraph applies for the remainder of the asset's life. If the taxpayer does not make the election under this subdivision, subdivision (a) of this paragraph applies for the remainder of the asset's life.

(c) In taxable years beginning from and after December 31, 2013 through December 31, 2015, an amount equal to the depreciation allowable pursuant to section 167(a) of the internal revenue code for the taxable year as computed as if the additional allowance for depreciation had been ten percent of the amount allowed pursuant to section 168(k) of the internal revenue code.

(d) In taxable years beginning from and after December 31, 2015 through December 31, 2016, an amount equal to the depreciation allowable pursuant to section 167(a) of the internal revenue code for the taxable year as computed as if the additional allowance for depreciation had been fifty-five percent of the amount allowed pursuant to section 168(k) of the internal revenue code.

(e) In taxable years beginning from and after December 31, 2016, an amount equal to the depreciation allowable pursuant to section 167(a) of the internal revenue code for the taxable year as computed as if the additional allowance for depreciation had been the full amount allowed pursuant to section 168(k) of the internal revenue code.

19. 18. With respect to property that is sold or otherwise disposed of during the taxable year by a taxpayer that complied with section 43-1021, paragraph 12 11 with respect to that property, the amount of depreciation that has been allowed pursuant to section 167(a) of the internal revenue code to the extent that the amount has not already reduced Arizona taxable income in the current or prior taxable years.

20. 19. The amount contributed during the taxable year to college savings plans established pursuant to section 529 of the internal revenue code ON BEHALF OF THE DESIGNATED BENEFICIARY to the extent that the contributions were not deducted in computing federal adjusted gross income. The amount subtracted MAY not exceed:

(a) $2,000 PER BENEFICIARY for a single individual or a head of household.

(b) $4,000 PER BENEFICIARY for a married couple filing a joint return. In the case of a husband and wife who file separate returns, the subtraction may be taken by either taxpayer or may be divided between them, but the total subtractions allowed both husband and wife MAY not exceed $4,000 PER BENEFICIARY.

21. 20. The portion of the net operating loss carryforward that would have been allowed as a deduction in the current year pursuant to section 172 of the internal revenue code if the election described in section 172(b)(1)(H) of the internal revenue code had not been made in the year of the loss that exceeds the actual net operating loss carryforward that was deducted in arriving at federal adjusted gross income. This subtraction only applies to taxpayers who made an election under section 172(b)(1)(H) of the internal revenue code as amended by section 1211 of the American recovery and reinvestment act of 2009 (P.L. 111-5) or as amended by section 13 of the worker, homeownership, and business assistance act of 2009 (P.L. 111-92).
21. For taxable years beginning from and after December 31, 2013, the amount of any net capital gain included in federal adjusted gross income for the taxable year derived from investment in a qualified small business as determined by the Arizona commerce authority pursuant to section 41-1518.

22. An amount of any net long-term capital gain included in federal adjusted gross income for the taxable year that is derived from an investment in an asset acquired after December 31, 2011, as follows:
   (a) For taxable years beginning from and after December 31, 2012 through December 31, 2013, ten percent of the net long-term capital gain included in federal adjusted gross income.
   (b) For taxable years beginning from and after December 31, 2013 through December 31, 2014, twenty percent of the net long-term capital gain included in federal adjusted gross income.
   (c) For taxable years beginning from and after December 31, 2014, twenty-five percent of the net long-term capital gain included in federal adjusted gross income. For the purposes of this paragraph, a transferee that receives an asset by gift or at the death of a transferor is considered to have acquired the asset when the asset was acquired by the transferor. If the date an asset is acquired cannot be verified, a subtraction under this paragraph is not allowed.

23. If an individual is not claiming itemized deductions pursuant to section 43-1042, the amount of premium costs for long-term care insurance, as defined in section 20-1691.

24. The amount of eligible access expenditures paid or incurred during the taxable year to comply with the requirements of the Americans with disabilities act of 1990 (P.L. 101-336) or title 41, chapter 9, article 8 as provided by section 43-1024.

25. For taxable years beginning from and after December 31, 2017, the amount of any net capital gain included in Arizona gross income for the taxable year that is derived from the exchange of one kind of legal tender for another kind of legal tender. For the purposes of this paragraph:
   (a) "Legal tender" means a medium of exchange, including specie, that is authorized by the United States Constitution or Congress to pay debts, public charges, taxes and dues.
   (b) "Specie" means coins having precious metal content.

26. Benefits, annuities and pensions received as retired or retainer pay of the uniformed services of the United States in amounts as follows:
   (a) For taxable years through December 31, 2018, an amount totaling not more than $2,500.
   (b) For taxable years beginning from and after December 31, 2018 through December 31, 2020, an amount totaling not more than $3,500.
   (c) For taxable years beginning from and after December 31, 2020, the full amount received.

27. For taxable years beginning from and after December 31, 2020, the amount contributed during the taxable year to an achieving a better life experience account established pursuant to section 529A of the internal revenue code on behalf of the designated beneficiary to the extent that the
CONTRIBUTIONS WERE NOT DEDUCTED IN COMPUTING FEDERAL ADJUSTED GROSS INCOME. THE AMOUNT SUBTRACTED MAY NOT EXCEED:

(a) $2,000 PER BENEFICIARY FOR A SINGLE INDIVIDUAL OR A HEAD OF HOUSEHOLD.

(b) $4,000 PER BENEFICIARY FOR A MARRIED COUPLE FILING A JOINT RETURN. IN THE CASE OF A HUSBAND AND WIFE WHO FILE SEPARATE RETURNS, THE SUBTRACTION MAY BE TAKEN BY EITHER TAXPAYER OR MAY BE DIVIDED BETWEEN THEM, BUT THE TOTAL SUBTRACTIONS ALLOWED BOTH HUSBAND AND WIFE MAY NOT EXCEED $4,000 PER BENEFICIARY.
EXPLANATION OF BLEND
SECTION 43-1089.01

Laws 2021, Chapters 196 and 412

Laws 2021, Ch. 196, section 20  Effective September 29, 2021
Laws 2021, Ch. 412, section 19  Effective September 29, 2021

Explanation

Since these two enactments are compatible, the Laws 2021, Ch. 196 and Ch. 412 text changes to section 43-1089.01 are blended in the form shown on the following pages.
43-1089.01. Tax credit; public school fees and contributions: definitions

A. A credit is allowed against the taxes imposed by this title for the amount of any fees paid or cash contributions made by a taxpayer or on the taxpayer's behalf pursuant to section 43-401, subsection G during the taxable year to a public school located in this state for the following public school purposes:

1. Standardized testing for college credit or readiness offered by a widely recognized and accepted educational testing organization.
2. The career and technical education industry certification assessment.
3. Preparation courses and materials for standardized testing.
4. Cardiopulmonary resuscitation training pursuant to section 15-718.01.
5. Extracurricular activities.
6. Character education programs.
7. From and after June 30, 2019 through June 30, 2024:
   (a) Acquiring capital items, as defined in the uniform system of financial records, including those items listed in section 15-903, subsection C, paragraphs 2 through 8.
   (b) Community school meal programs. AN AMOUNT PAID BY AN INDIVIDUAL TO RECEIVE A MEAL OR A MEAL CARD DOES NOT QUALIFY AS A FEE OR DONATION FOR COMMUNITY SCHOOL MEAL PROGRAMS.
   (c) Student consumable health care supplies.
   (d) Playground equipment and shade structures for playground equipment.

B. The amount of the credit shall not exceed:
1. $200 for a single individual or a head of household.
2. $400 for a married couple filing a joint return.
3. A husband and wife who file separate returns for a taxable year in which they could have filed a joint return may each claim only one-half of the tax credit that would have been allowed for a joint return.

D. The credit allowed by this section is in lieu of any deduction pursuant to section 170 of the internal revenue code and taken for state tax purposes.

E. If the allowable tax credit exceeds the taxes otherwise due under this title on the claimant's income, or if there are no taxes due under this title, the taxpayer may carry the amount of the claim not used to offset the taxes under this title forward for not more than five consecutive taxable years' income tax liability.

F. The site council of the public school that receives contributions that are not designated for a specific purpose shall determine how the contributions are used at the school site. If a charter school does not have a site council, the principal, director or chief administrator of the
charter school shall determine how the contributions that are not designated for a specific purpose are used at the school site. If at the end of a fiscal year a public school has unspent contributions that were previously designated for a specific purpose or program and that purpose or program has been discontinued or has not been used for two consecutive fiscal years, these contributions shall be considered undesignated in the following fiscal year for the purposes of this subsection, and the site council may transfer these undesignated contributions to any school within the same school district.

G. A public school that receives fees or a cash contribution pursuant to subsection A of this section shall report to the department, in a form prescribed by the department, by February 28 of each year the following information:

1. The total number of fee and cash contribution payments received during the previous calendar year.
2. The total dollar amount of fees and contributions received during the previous calendar year.
3. The total dollar amount of fees and contributions spent by the school during the previous calendar year, categorized by specific standardized testing, preparation courses and materials for standardized testing, extracurricular activity or character education program.

H. For the purposes of this section, a contribution for which a credit is claimed and that is made on or before the fifteenth day of the fourth month following the close of the taxable year may be applied to either the current or preceding taxable year and is considered to have been made on the last day of that taxable year.

I. For the purposes of this section:
2. "Character education programs" means a program described in section 15-719.
3. "Community school meal program" means a school meal program that takes place before or after the regular school day on school property.
4. "Extracurricular activities" means school-sponsored activities that may require enrolled students to pay a fee in order to participate, including fees for:
   (a) Band uniforms.
   (b) Equipment or uniforms for varsity athletic activities.
   (c) Scientific laboratory materials.
   (d) In-state or out-of-state trips that are solely for competitive events. Extracurricular activities do not include any senior trips or events that are recreational, amusement or tourist activities.
5. "Public school" means a school that is part of a school district, a career technical education district or a charter school.
6. "Standardized testing for college credit or readiness" includes the SAT, PSAT, ACT, advanced placement and international baccalaureate diploma tests and other similar tests.
7. "Student consumable health care supplies" includes tissues, hand wipes, bandages and other health care consumables that are generally used by children.

8. "Widely recognized and accepted educational testing organization" means the college board, the ACT, the international baccalaureate and other organizations that are widely recognized and accepted by colleges and universities in the United States and that offer college credit and readiness examinations.
EXPLANATION OF BLEND
SECTION 43-1089.02

Laws 2021, Chapters 383 and 404

Laws 2021, Ch. 383, section 2  Effective September 29, 2021
   (Retroactive to January 1, 2020)

Laws 2021, Ch. 404, section 105  Effective September 29, 2021

Explanation

Since these two enactments are compatible, the Laws 2021, Ch. 383 and Ch. 404 text changes to section 43-1089.02 are blended in the form shown on the following pages.
43-1089.02. Credit for donation of school site

A. A credit is allowed against the taxes imposed by this title in the amount of thirty percent of the value of real property and improvements donated by the taxpayer to a school district or a charter school for use as a school or as a site for the construction of a school.

B. To qualify for the credit:

1. The real property and improvements must be located in this state.
2. The real property and improvements must be conveyed unencumbered and in fee simple, except that:
   
   (a) The conveyance must include as a deed restriction and protective covenant running with title to the land the requirement that as long as the donee holds title to the property the property shall only be used ONLY as a school or as a site for the construction of a school, subject to subsection I or J of this section.
   
   (b) In the case of a donation to a charter school, the donor shall record a lien on the property as provided by subsection J, paragraph 3 of this section.
3. The conveyance shall not violate section 15-341, subsection D or section 15-183, subsection U.

C. For the purposes of this section, the value of the donated property is the property's fair market value as determined in an appraisal as defined in section 32-3601 that is conducted by an independent party and that is paid for by the donee.

D. If the property is donated by co-owners, including individual partners in a partnership AND SHAREHOLDERS OF AN S CORPORATION AS DEFINED IN SECTION 1361 OF THE INTERNAL REVENUE CODE, each donor may claim only the pro rata share of the allowable credit under this section based on the ownership interest. If the property is donated by a husband and wife who file separate returns for a taxable year in which they could have filed a joint return, they may determine between them the share of the credit each will claim. The total of the credits allowed all co-owner donors may not exceed the allowable credit.

E. If the allowable tax credit exceeds the taxes otherwise due under this title on the claimant's income, or if there are no taxes due under this title, the taxpayer may carry the amount of the claim not used to offset the taxes under this title forward for not more than five consecutive taxable years' income tax liability.

F. The credit under this section is in lieu of any deduction pursuant to section 170 of the internal revenue code taken for state tax purposes.

G. On written request by the donee, the donor shall disclose in writing to the donee the amount of the credit allowed pursuant to this section with respect to the property received by the donee.

H. A school district or charter school may refuse the donation of any property for purposes of this section.
I. If the donee is a school district:

1. The district shall notify the DIVISION OF school facilities board established by section 15-2001 WITHIN THE DEPARTMENT OF ADMINISTRATION and furnish the board DIVISION with any information the board DIVISION requests regarding the donation. A school district shall not accept a donation pursuant to this section unless the school facilities board DIVISION has reviewed the proposed donation and has issued a written determination that the real property and improvements are suitable as a school site or as a school. The school facilities board DIVISION shall issue a determination that the real property and improvements are not suitable as a school site or as a school if the expenses that would be necessary to make the property suitable as a school site or as a school exceed the value of the proposed donation.

2. The district may sell any donated property pursuant to section 15-342, but the proceeds from the sale shall only be used ONLY for capital projects. The school facilities OVERSIGHT board shall DIRECT THE DIVISION OF SCHOOL FACILITIES WITHIN THE DEPARTMENT OF ADMINISTRATION TO withhold an amount that corresponds to the amount of the proceeds from any monies that would otherwise be due the school district from the school facilities board pursuant to section 15-2041 41-5741.

J. If the donee is a charter school:

1. The charter school shall:
   a. Immediately notify the sponsor of the charter school by certified mail and shall furnish the sponsor with any information requested by the sponsor regarding the donation during the ten-year TEN-YEAR period after the conveyance is recorded.
   b. Notify the sponsor by certified mail, and the sponsor shall notify the state treasurer, in the event of the charter school’s financial failure or if the charter school:
      i. Fails to establish a charter school on the property within forty-eight months after the conveyance is recorded.
      ii. Fails to provide instruction to pupils on the property within forty-eight months after the conveyance is recorded.
      iii. Establishes a charter school on the property but subsequently ceases to operate the charter school on the property for twenty-four consecutive months or fails to provide instruction to pupils on the property for twenty-four consecutive months.

2. The charter school, or a successor in interest, shall pay to the state treasurer the amount of the credit allowed under this section, or if that amount is unknown, the amount of the allowable credit under this section, if any of the circumstances listed in paragraph 1, subdivision (b) of this subsection occurs. If the amount is not paid within one year after the treasurer receives notice under paragraph 1, subdivision (b) of this subsection, a penalty and interest shall be added, determined pursuant to title 42, chapter 1, article 3.

3. A tax credit under this section constitutes a lien on the property, which the donor must record along with the title to the property to qualify for the credit. The amount of the lien is the amount of the allowable credit under this section, adjusted according to the average change in the GDP price deflator, as defined in section 41-563, for each calendar year since the
donation, but not exceeding twelve and one-half percent more than the allowable credit. The lien is subordinate to any liens securing the financing of the school construction. The lien is extinguished on the earliest of the following:

(a) Ten years after the lien is recorded. After that date, the charter school, or a successor in interest, may request the state treasurer to release the lien.

(b) On payment to the state treasurer by the donee charter school, or by a successor in interest, of the amount of the allowable credit under this section, either voluntarily or as required by paragraph 2 of this subsection. After the required amount is paid, the charter school or successor in interest may request the state treasurer to release the lien.

(c) On conveyance of fee simple title to the property to a school district.

(d) On enforcement and satisfaction of the lien pursuant to paragraph 4 of this subsection.

4. The state treasurer shall enforce the lien by foreclosure within one year after receiving notice of any of the circumstances described in paragraph 1, subdivision (b) of this subsection.

5. Subject to paragraphs 3 and 4 of this subsection, the charter school may sell any donated property.
EXPLANATION OF BLEND
SECTION 43-1122

Laws 2021, Chapters 412 and 430

Laws 2021, Ch. 412, section 20 \hspace{2cm} Effective September 29, 2021
\hspace{2cm} (Retroactive to January 1, 2021)

Laws 2021, Ch. 430, section 12 \hspace{2cm} Effective September 29, 2021
\hspace{2cm} (Retroactive to January 1, 2021)

Explanation

Since these two enactments are identical, the Laws 2021, Ch. 412 and Ch. 430 text changes to section 43-1122 are blended in the form shown on the following pages.
43-1122. **Subtractions from Arizona gross income: corporations**

In computing Arizona taxable income for a corporation, the following amounts shall be subtracted from Arizona gross income:

1. The excess of a partner's share of income required to be included under section 702(a)(8) of the internal revenue code over the income required to be included under chapter 14, article 2 of this title.

2. The excess of a partner's share of partnership losses determined pursuant to chapter 14, article 2 of this title over the losses allowable under section 702(a)(8) of the internal revenue code.

3. The amount allowed by section 43-1025 for contributions during the taxable year of agricultural crops to charitable organizations.

4. The portion of any wages or salaries paid or incurred by the taxpayer for the taxable year that is equal to the amount of the federal work opportunity credit, the empowerment zone employment credit, the credit for employer paid social security taxes on employee cash tips and the Indian employment credit that the taxpayer received under sections 45A, 45B, 51(a) and 1396 of the internal revenue code.

5. With respect to property that is sold or otherwise disposed of during the taxable year by a taxpayer that complied with section 43-1121, paragraph 4 with respect to that property, the amount of depreciation that has been allowed pursuant to section 167(a) of the internal revenue code to the extent that the amount has not already reduced Arizona taxable income in the current taxable year or prior taxable years.

6. With respect to a financial institution as defined in section 6-101, expenses and interest relating to tax-exempt income disallowed pursuant to section 265 of the internal revenue code.

7. Dividends received from another corporation owned or controlled directly or indirectly by a recipient corporation. For the purposes of this paragraph, "control" means direct or indirect ownership or control of fifty percent or more of the voting stock of the payor corporation by the recipient corporation. Dividends shall have the meaning provided in section 316 of the internal revenue code. This subtraction shall apply without regard to section 43-961, paragraph 2 and article 4 of this chapter.

8. Interest income received on obligations of the United States.

9. The amount of dividend income from foreign corporations. For the purposes of this paragraph, gross up income as described in section 78 of the internal revenue code, global intangible low-taxed income as defined in section 951A of the internal revenue code and subpart F income as defined in section 952 of the internal revenue code shall be considered foreign dividends.

10. The amount of net operating loss allowed by section 43-1123.

11. The amount of any state income tax refunds received that were included as income in computing federal taxable income.

12. The amount of expense recapture included in income pursuant to section 617 of the internal revenue code for mine exploration expenses.

13. The amount of deferred exploration expenses allowed by section 43-1127.

14. The amount of exploration expenses related to the exploration of oil, gas or geothermal resources, computed in the same manner and on the
same basis as a deduction for mine exploration pursuant to section 617 of the internal revenue code. This computation is subject to the adjustments contained in section 43-1121, paragraph 10 and paragraphs 12 and 13 of this section relating to exploration expenses.

15. The amortization of pollution control devices allowed by section 43-1129.

16. The amount of amortization of the cost of child care facilities pursuant to section 43-1130.

17. The amount of income from a domestic international sales corporation required to be included in the income of its shareholders pursuant to section 995 of the internal revenue code.

18. The income of an insurance company that is exempt under section 43-1201 to the extent that it is included in computing Arizona gross income on a consolidated return pursuant to section 43-947.

19. The amount by which a capital loss carryover allowable pursuant to section 43-1130.01, subsection F exceeds the capital loss carryover allowable pursuant to section 1341(b)(5) of the internal revenue code.

20. An amount equal to the depreciation allowable pursuant to section 167(a) of the internal revenue code for the taxable year computed as if the election described in section 168(k)(7) of the internal revenue code had been made for each applicable class of property in the year the property was placed in service.

21. The amount of eligible access expenditures paid or incurred during the taxable year to comply with the requirements of the Americans with disabilities act of 1990 (P.L. 101-336) or title 41, chapter 9, article 8 as provided by section 43-1124.

22. For taxable years beginning from and after December 31, 2017, the amount of any net capital gain included in Arizona gross income for the taxable year that is derived from the exchange of one kind of legal tender for another kind of legal tender. For the purposes of this paragraph:

   (a) "Legal tender" means a medium of exchange, including specie, that is authorized by the United States Constitution or Congress to pay debts, public charges, taxes and dues.

   (b) "Specie" means coins having precious metal content.

23. WITH RESPECT TO A PUBLIC SERVICE CORPORATION OPERATING A WATER SYSTEM OR SEWAGE DISPOSAL FACILITY, THE AMOUNT OF MONIES OR PROPERTY RECEIVED AS A CONTRIBUTION IN AID OF CONSTRUCTION. FOR THE PURPOSES OF THIS PARAGRAPH:

   (a) "CONTRIBUTION IN AID OF CONSTRUCTION" MEANS ANY AMOUNT OF MONIES OR OTHER PROPERTY CONTRIBUTED TO A PUBLIC SERVICE CORPORATION THAT PROVIDES WATER OR SEWAGE DISPOSAL SERVICES TO THE EXTENT THAT THE PURPOSE OF THE CONTRIBUTION IS TO PROVIDE FOR EXPANDING, IMPROVING OR REPLACING THE PUBLIC SERVICE CORPORATION'S WATER SYSTEM OR SEWAGE DISPOSAL FACILITIES, INCLUDING ANY AMOUNT OF MONIES OR OTHER PROPERTY CONTRIBUTED TO A PUBLIC SERVICE CORPORATION FOR A WATER SYSTEM OR SEWAGE DISPOSAL FACILITY SUBJECT TO A CONTINGENT OBLIGATION TO REPAY THE AMOUNT, IN WHOLE OR IN PART, TO THE CONTRIBUTOR.

   (b) "PUBLIC SERVICE CORPORATION" MEANS A PUBLIC SERVICE CORPORATION AS DEFINED IN ARTICLE XV, SECTION 2, CONSTITUTION OF ARIZONA, THAT IS REGULATED BY THE CORPORATION COMMISSION.
EXPLANATION OF BLEND
SECTION 43-1164.05

Laws 2021, Chapters 196 and 266

Laws 2021, Ch. 196, section 21
Effective September 29, 2021
(Retroactive to August 25, 2020)

Laws 2021, Ch. 266, section 8
Effective September 29, 2021
(Retroactive to August 25, 2020)

Explanation

Since the Ch. 266 version includes all the changes made by the Ch. 196 version, the Laws 2021, Ch. 266 amendment of section 43-1164.05 is the blend of both the Laws 2021, Ch. 196 and Ch. 266 versions.
43-1164.05. Credit for renewable energy investment and production for self-consumption by international operations centers; definitions

A. A credit is allowed against the taxes imposed by this title for investment in new renewable energy facilities that produce energy for self-consumption using renewable energy resources if the power will be used primarily for an international operations center.

B. The taxpayer is eligible for the credit if all of the following apply:

1. The taxpayer, or a third-party entity on behalf of or for the direct benefit of the taxpayer, invests at least $100,000,000 in one or more new renewable energy facilities in this state that produce energy for self-consumption using renewable energy resources. The minimum investment must be completed within a three-year period beginning on the date the initial application is received or by December 31, 2018, whichever is earlier.

2. A portion of the energy produced at each renewable energy facility is used for self-consumption in this state. By the fifth year a renewable energy facility is in operation, at least fifty-one percent of the energy produced must be used for self-consumption in this state. Self-consumption includes the power used by related entities if the related entities are directly or indirectly under the same ownership interests that collectively own more than eighty percent. Power that a renewable energy facility transfers to a utility or power generated by a utility-owned renewable energy facility developed on behalf of or for the direct benefit of the taxpayer qualifies as self-consumption if the utility is the same utility that provides power to the owner's international operations center in this state.

3. The power that is used for self-consumption under paragraph 2 of this subsection is used for an international operations center in this state. A lessor of an international operations center facility that uses power for self-consumption under paragraph 2 of this subsection satisfies the requirements of this paragraph if the lessee is an international operations center and the power is transferred as part of the lease to the lessee.

C. Subject to subsection F of this section, the credit authorized by this section is $5,000,000 per year for five years for each renewable energy facility. The maximum credit allowed per taxpayer per year is $5,000,000. The taxpayer, including all affiliates of the taxpayer, may not cumulate tax credits under this section over different taxable years exceeding, in the aggregate, $25,000,000. The initial credit for each facility is claimed in the year that the facility becomes operational. A credit, other than carryovers allowed under subsection M of this section, may not be claimed for any taxable year beginning after December 31,
2025. An international operations center that is initially certified pursuant to section 41-1520, subsection C after December 31, 2018 may not claim the tax credit authorized by this section.

D. To qualify as a separate renewable energy facility for the purposes of this section, a facility must be located at least one mile from any other renewable energy facility for which the taxpayer is claiming a credit under this section.

E. To be eligible for the credit under this section, the taxpayer must apply to the department for certification of the credit on a form prescribed by the department. The application shall include:

1. The name, address and social security number or federal employer identification number of the applicant.

2. An estimate of the total investment the taxpayer will make, including investments made by a third-party entity on behalf of or for the direct benefit of the taxpayer, over a three-year period beginning on the date the application is received, in new renewable energy facilities in this state that produce energy for self-consumption using renewable energy resources. For investments made by a third party, a statement from the utility that provides power to the international operations center affirming that the investment in new renewable energy facilities is made on behalf of or for the direct benefit of the taxpayer satisfies the requirement of this paragraph.

3. The expected location of each of the taxpayer’s facilities that comprise the total investment in paragraph 2 of this subsection and the earliest date that each facility is expected to be operational.

4. A statement that the portion of the power generated by each facility, as required by subsection B, paragraph 2 of this section, shall be for self-consumption and shall be used for international operations center use.

5. Any additional information that the department requires.

F. The department shall review each application under subsection E of this section and preapprove the taxpayer for a specified amount of credit that is authorized. Credits are allowed under this section on a first-come, first-served basis. The department may not authorize tax credits under this section that exceed in the aggregate a total of $10,000,000 for any calendar year. The portion of each year’s limit that is reserved for each taxpayer must be based on the year that each credit is expected to be claimed using the dates provided in subsection E, paragraph 3 of this section. If the year a facility is completed is different from the estimated completion date provided in subsection E, paragraph 3 of this section, the taxpayer must amend the application with the new dates. If an application is received that, if authorized, would require the department to exceed the $10,000,000 limit, the department shall grant the applicant only the remaining credit amount that would not exceed the $10,000,000 limit. After the department authorizes $10,000,000 in tax credits, the department shall deny any subsequent applications that are received for that calendar year. The department may not authorize any additional tax credits that exceed the $10,000,000 limit even if the amounts that have been certified to any taxpayer are not claimed or a taxpayer otherwise fails to meet the requirements to claim the additional credit.
G. If a taxpayer fails to start construction within six months after submitting the application under subsection E of this section, the preapproval issued under subsection F of this section is void and all monies reserved from the limits specified in subsection F of this section revert back to the limit for the year for which they were reserved.

H. Each year after initial preapproval, on or before the anniversary date of the application specified in subsection E of this section, the taxpayer must submit to the department:

1. Documentation of the taxpayer's progress toward the investment required by subsection B, paragraph 1 of this section. This documentation is not required after the department receives a report stating that the required investment threshold has been reached.

2. Documentation for each facility that demonstrates that the required portion of the power generated by each renewable energy facility is for self-consumption as required by subsection B, paragraph 2 of this section.

3. If applicable, certification from the Arizona commerce authority pursuant to section 41-1520.

I. The taxpayer must submit a request for final certification to the department within thirty days after each of the renewable energy facilities for which an authorization was given under subsection F of this section becomes operational. Within thirty days after receiving a completed request under this subsection, the department shall review the request and either issue a final certification of the credit to the taxpayer or issue a denial of the credit if it is determined that the requirements of this section have not been met. Every final certification issued under this subsection must include a facility code issued by the department that is unique to each facility. To show that the facility has been certified, the taxpayer shall include with the tax return the facility code for each facility for which a credit is claimed. If the taxpayer is the owner or operator of an international operations center, the taxpayer must submit the request for final certification for each of the renewable energy facilities for which capital investment will be claimed towards the required investment threshold and must submit additional evidence to the department within sixty days after the end of the fifth year of operation of each facility that the requirements of subsection B, paragraph 2 of this section have been met.

J. If the taxpayer fails to make the required investment in renewable energy facilities within the time period required by subsection B, paragraph 1 of this section or if the certification of an international operations center has been revoked under section 41-1520 due to a failure to make a $1,250,000,000 investment in the center within ten years after certification or if the taxpayer fails to receive final certification of the credit under subsection I of this section, the taxpayer is not eligible and must cease claiming any further credits under this section and shall reimburse the amount of all credits previously received under this section. The reimbursement must be made on the taxpayer's income tax return for the taxable year in which it is first known that the required investment would not be made within the required time or the taxable year in which the certification was revoked. The department may give special consideration or allow a temporary exemption from reimbursement if there is extraordinary
hardship due to factors beyond the taxpayer's control. If the reimbursement is due to revocation of the certification of an international operations center due to a failure to invest $1,250,000,000 in the center within ten years after certification, the credits shall be reimbursed in inverse proportion to the total capital investment made in the international operations center divided by $1,250,000,000. The department may require reimbursement before the tenth anniversary of certification of an international operations center if the facility has been closed or relocated or the taxpayer has otherwise demonstrated that the $1,250,000,000 investment will not be timely made. FOR TAXPAYERS USING INVESTMENTS MADE BY THIRD-PARTY ENTITIES ON BEHALF OF OR FOR THE DIRECT BENEFIT OF THE TAXPAYER, THE INVESTMENT THRESHOLD IS $1,500,000,000. A THIRD-PARTY ENTITY MAY NOT INCLUDE THE OWNER OR OPERATOR OF THE INTERNATIONAL OPERATIONS CENTER OR, SOLELY FOR THE PURPOSES OF THIS SUBSECTION, THE OWNER'S OR OPERATOR'S AFFILIATED ENTITIES.

K. If a particular facility ceases to meet the requirements of this section or if the facility is sold, the taxpayer may not claim any future credits related to that facility.

L. Co-owners of a business, including corporate partners in a partnership and corporate members of a limited liability company treated as a partnership, may each claim the pro rata share of the credit allowed under this section based on ownership interest. Only co-owners that are corporations may claim a share of the credit allowed under this section. The total of the credits allowed all the owners of the business may not exceed the amount that would have been allowed for a sole owner of the business.

M. If the allowable tax credit for a taxpayer exceeds the taxes otherwise due under this title on the claimant's income, or if there are no taxes due under this title, the amount of the claim not used to offset taxes under this title may be carried forward for not more than five consecutive taxable years as a credit against subsequent years' income tax liability.

N. A taxpayer may not claim a credit under this section and section 43-1164.03 regarding the same facilities.

O. The department shall adopt rules and publish and prescribe forms and procedures as necessary to effectuate the purposes of this section.

P. For the purposes of this section:

1. "Biomass" means organic material that is available on a renewable or recurring basis, including:
   (a) Forest-related materials, including mill residues, logging residues, forest thinnings, slash, brush, low-commercial value materials or undesirable species, salt cedar and other phreatophyte or woody vegetation removed from river basins or watersheds and woody material harvested for the purpose of forest fire fuel reduction or forest health and watershed improvement.
   (b) Agricultural-related materials, including orchard trees, vineyard, grain or crop residues, including straws and stover, aquatic plants and agricultural processed coproducts and waste products, including fats, oils, greases, whey and lactose.
   (c) Animal waste, including manure and slaughterhouse and other processing waste.
(d) Solid woody waste materials, including landscape or right-of-way tree trimmings, rangeland maintenance residues, waste pallets, crates and manufacturing, construction and demolition wood wastes but excluding pressure-treated, chemically treated or painted wood wastes and wood contaminated with plastic.

(e) Crops and trees planted for the purpose of being used to produce energy.

(f) Landfill gas, wastewater treatment gas and biosolids, including organic waste by-products generated during the wastewater treatment process.

2. "International operations center" means a facility that is certified by the Arizona commerce authority pursuant to section 41-1520.

3. "Renewable energy facility" means a facility in which the taxpayer, OR A THIRD-PARTY ENTITY ON BEHALF OF AND FOR THE BENEFIT OF THE TAXPAYER, invested at least $30,000,000, that has at least twenty megawatts generating capacity or a minimum typical annual generation of forty thousand megawatt hours, that is located on land in this state owned or leased by the taxpayer OR A THIRD-PARTY ENTITY ON BEHALF OF AND FOR THE BENEFIT OF THE TAXPAYER and that produces electricity using a renewable energy resource.

4. "Renewable energy resource" means a resource that generates electricity through the use of only the following energy sources:
   (a) Solar light.
   (b) Solar heat.
   (c) Wind.
   (d) Biomass, including fuel cells supplied directly or indirectly with biomass generated fuels.
   (e) BATTERY STORAGE THAT IS INDEPENDENT FROM OR COUPLED WITH OTHER SOURCES.
EXPLANATION OF BLEND
SECTION 48-805

Laws 2021, Chapters 145 and 241

Laws 2021, Ch. 145, section 3  Effective September 29, 2021
Laws 2021, Ch. 241, section 2  Effective April 16, 2021

Explanation

Since these two enactments are compatible, the Laws 2021, Ch. 145 and Ch. 241 text changes to section 48-805 are blended in the form shown on the following pages.
48-805. Fire district: powers and duties: definition
A. A fire district, through its board, shall:

1. Hold public meetings at least once each calendar month unless
   except as follows:

   (a) If a board consists of three members and the fire district levies
   less than $500,000 annually, then the board shall meet in July and at least
   every two months thereafter.

   (b) A board for a district organized pursuant to article 3 of this
   chapter shall hold public meetings at least every two months.

2. Determine the compensation payable to district personnel.

3. Require all current and prospective employees and volunteers to
   submit a full set of fingerprints to the fire district, joint powers
   authority, fire authority, fire and medical authority or fire and ambulance
   authority that is formed with that fire district pursuant to section
   48-805.01. The fire district, joint powers authority that is formed pursuant
   to section 48-805.01, fire authority, fire and medical authority or fire and
   ambulance authority shall submit the fingerprints to the department of public
   safety for the purpose of obtaining TO OBTAIN a state and federal criminal
   records check pursuant to section 41-1750 and Public Law 92-544. The
   department of public safety may exchange this fingerprint data with the
   federal bureau of investigation.

B. A fire district, through its board, may:

1. Employ any personnel and provide services deemed necessary for fire
   protection, for preservation of life and for carrying out its other powers
   and duties, including providing ambulance transportation services when
   authorized to do so pursuant to title 36, chapter 21.1, article 2, but a
   member of a district board shall not be an employee of the district. The
   merger of two or more fire districts pursuant to section 48-820 or the
   consolidation with one or more fire districts pursuant to section 48-822
   shall not expand the boundaries of an existing certificate of necessity
   unless authorized pursuant to title 36, chapter 21.1, article 2.

2. Construct, purchase, lease, lease-purchase or otherwise acquire the
   following or any interest in the following and, in connection with the
   construction or other acquisition, purchase, lease, lease-purchase or grant a
   lien on any or all of its present or future property, including:

   (a) Apparatus, water and rescue equipment, including ambulances and
   equipment related to any of the foregoing.

   (b) Land, buildings, equipment and furnishings to house equipment and
   personnel necessary or appropriate to carry out its purposes.

3. LEASE, LEASE-PURCHASE OR GRANT A LIEN ON ANY OR ALL OF ITS PRESENT
   OR FUTURE PROPERTY TO PAY AMOUNTS TO THE PUBLIC SAFETY PERSONNEL RETIREMENT
   SYSTEM PURSUANT TO SECTION 38-843, PENSION PREFUNDING PLAN INVESTMENT
   ACCOUNTS PURSUANT TO SECTION 35-314.04 AND THE ARIZONA EMPLOYERS' PENSION
4. Finance the acquisition of property as provided in this section and costs incurred in connection with the issuance of bonds as provided in section 48-806. Bonds shall not be issued without the consent of a majority of the electors of the district voting at an election held for that purpose. For the purposes of an election held under this paragraph, all persons who are eligible to vote in fire district elections under section 48-802 are eligible to vote.

5. Enforce the fire code adopted by the district, if any, and assist the office of the state fire marshal in the enforcement of fire protection standards of this state within the fire district including enforcement of a nationally recognized fire code if expressly authorized by the office of the state fire marshal.

6. After the approval of the qualified electors of the fire district voting at a regular district election or at a special election called for that purpose by the district board, as appropriate, or at any election held in the county that encompasses the fire district, adopt the fire code, which is a nationally recognized fire code approved by the state fire marshal. The words appearing on the ballots shall be "should fire district adopt the fire code, which is a nationally recognized fire code approved by the state fire marshal--yes", "should fire district adopt the fire code, which is a nationally recognized fire code approved by the office of the state fire marshal--no". The code shall be enforced by the county attorney in the same manner as any other law or ordinance of the county. Any inspection or enforcement costs are the responsibility of the fire district involved. The district shall keep the code on file, which shall be open to public inspection for a period of thirty days before any election for the purpose of adopting a fire code. Copies of the order of election shall be posted in three public places in the district at least twenty days before the date of the election, and if a newspaper is published in the county having a general circulation in the district, the order shall be published in the newspaper at least once a week during each of the three calendar weeks preceding the calendar week of the election.

7. Amend or revise the adopted fire code, including replacement of the adopted fire code with an alternative nationally recognized fire code, with the approval of the office of the state fire marshal and after a hearing held pursuant to posted and published notice as prescribed by section 48-805.02, subsection A. The district shall keep three copies of the adopted code, amendments and revisions on file for public inspection.

8. Enter into an agreement procuring the services of an organized private fire protection company or a fire department of a neighboring city, town, district or settlement without impairing the fire district's powers.

9. Contract with a city or town for fire protection services for all or part of the city or town area until the city or town elects to provide regular fire department services to the area.

10. Retain a certified public accountant to perform an annual audit of district books.

11. Retain private legal counsel.
12. Accept gifts, contributions, bequests and grants and comply with any requirements of those gifts, contributions, bequests and grants that are not inconsistent with this article.

13. Appropriate and expend annually monies as are necessary for the purpose of fire districts belonging to and paying dues in the Arizona fire district association and other professional affiliations or entities.

14. Adopt resolutions establishing fee schedules both within and outside of the jurisdictional boundaries of the district for providing fire protection services and services for the preservation of life, including emergency fire and emergency medical services, plan reviews, standby charges, fire cause determination, users' fees or facilities benefit assessments or any other fee schedule that may be required.

15. With the approval of two of the three members of a three-member board, four of the five members of a five-member board or five of the seven members of a seven-member board, change the district's name and on so doing shall give written notice to the board of supervisors of the change. The governing board of a fire district may place a question on the general election ballot as to whether the fire district shall change its name.

16. Require all employees to submit a full set of fingerprints as prescribed by subsection A, paragraph 3 of this section.

17. Enter into intergovernmental agreements or contracts as follows:
   (a) Enter into an intergovernmental agreement with another political subdivision for technical or administrative services or to provide fire services to the property owned by the political subdivision, including property that is outside the district boundary.
   (b) Enter into a contract with individuals to provide technical or administrative services.
   (c) Enter into a contract with individuals to provide fire protection services or emergency medical services, or both, to the extent not regulated by title 36, chapter 21.1 to property owned by the individual located outside the district boundaries if the individual's property is not located in a county island as defined in section 11-251.12 and at least one of the following apply:
      (i) The existing fire service provider where the individual's property is located has issued a notice to the individual that the provider plans to discontinue service.
      (ii) Fire service is not available to the individual's property.
      (iii) Fire service is offered pursuant to a contract or subscription and the individual has not obtained service for a period of twenty-four months before the date of the contract with the district.
   (d) Enter into a contract with individuals to provide fire services to property owned by the individual located outside the district boundaries, where the individual's property is located in a county island as defined in section 11-251.12, if both of the following apply:
      (i) The existing fire service provider where the individual's property is located has issued a notice to the residents of the county island and the individual that the provider plans to discontinue or substantially reduce service.
(ii) The district offers contracts to all residents and property owners of the county island who will be affected by the discontinuance or substantial reduction in service by the current fire service provider.

(e) For the purposes of subdivision (a), (b), (c) or (d) of this paragraph, a district may contract with any public or private fire service provider to provide some or all of the contractual services the district is contracting to deliver.

(f) Any contract entered into pursuant to subdivisions (b), (c) and (d) of this paragraph shall include a provision setting forth the cost of service and performance criteria.

17- 18. Sell or otherwise dispose of any real property, facilities or equipment if the district board determines the real property, facilities or equipment to be surplus as follows: —

(a) For the sale of real property, the board shall obtain an appraisal of the real property by an appraiser who is licensed or certified pursuant to Title 32, Chapter 36. The appraiser shall determine market value as defined in Section 28-7091 for the real property. The board may not accept a bid for the purchase of the real property that is less than seventy-five percent of the appraised market value of the property except that if the property has no market value or a net value as defined in Section 28-7095, subsection f of $10,000 or less, the board may value the property by using a market analysis that is based on comparable sales.

(b) Notwithstanding subdivision (a) of this paragraph, the board may sell or lease any district property to any other duly constituted governmental entity, including this state, a city, town or county or any other political subdivision of this state, including a special taxing district, on any terms deemed to be advantageous to the fire district. The board may grant by unanimous consent an easement on district property for public purposes to a utility as defined in Section 40-491.

C. A fire district may not administratively add or annex additional property or delete property or otherwise modify its boundaries except in a merger or consolidation pursuant to this chapter or in a boundary change made pursuant to Section 48-262. This subsection does not apply to a district organized pursuant to article 3 of this chapter.

D. The chairman CHAIRPERSON and clerk of the district board or their respective designees, as applicable, shall draw warrants, substitute checks or electronic funds transfers on the county treasurer for money required to operate the district in accordance with the budget and, as so drawn, the warrants, substitute checks or electronic funds transfers shall be sufficient to authorize the county treasurer to pay from the fire district fund.

E. For any fire district that designates one or more board members to have access to the financial books and records of the district, those board members are authorized by law to have full access to those financial books and records.

F. The district board may assess and levy a secondary property tax pursuant to this article to pay for the costs of fire protection services or emergency medical services except for services regulated pursuant to Title 36, Chapter 21.1.

G. The county attorney may advise and represent the district if in the county attorney's judgment the advice and representation are appropriate and
not in conflict with the county attorney's duties under section 11-532. If
the county attorney is unable to advise and represent the district due to a
conflict of interest, the district may retain private legal counsel or may
request the attorney general to represent it, or both.

H. If a district's fire code requires the use of a fire watch, an
employee who works at the building in which a fire watch is required may
serve as the fire watch. A person who is designated as a fire watch shall be
equipped with the means to contact the local fire department, and the
person's only duty while keeping watch for fires shall be to perform constant
patrols of the protected premises. The district shall provide the fire watch
with printed instructions from the office of the state fire marshal and may
provide a free training session before the person's deployment as the fire
watch begins.

I. For the purposes of this section, "fire watch" means a person who
is stationed in a building or in a place relative to a building to observe
the building and its openings when the fire protection system for the
building is temporarily nonoperational or absent.
EXPLANATION OF BLEND
SECTION 48-805.02

Laws 2021, Chapters 158 and 241

Laws 2021, Ch. 158, section 1  Effective September 29, 2021
Laws 2021, Ch. 241, section 3  Effective April 16, 2021

Explanation

Since these two enactments are compatible, the Laws 2021, Ch. 158 and Ch. 241 text changes to section 48-805.02 are blended in the form shown on the following pages.
48-805.02. Fire district annual budget: levy: requirements

A. A fire district shall prepare an annual budget that contains detailed estimated expenditures for each fiscal year and that clearly shows salaries payable to employees of the district as prescribed by subsection D of this section. The proposed budget summary shall be posted in three public places and a complete copy of the budget shall be published posted in a prominent location on the district's official website for at least twenty days before a public hearing. A meeting called by the board to adopt the budget. Copies of the proposed budget shall also be available to members of the public on written request to the district. Following the public hearing, the district board shall adopt a budget. A complete copy of the adopted budget shall be posted in a prominent location on the district's official website within seven business days after final adoption and shall be retained on the website for at least sixty months. For any fire district that does not maintain an official website, the fire district may comply with this subsection by posting on a website of an association of fire districts in this state.

B. Not more than ten days after the organization of a fire district and not later than August 1 of each year after the organization, the chairperson of the district board shall submit to the county board of supervisors a budget estimate that contains certifications by item and that specifies the amount of money required for the maintenance and operation of the district for the ensuing year as prescribed by subsection D of this section.

C. Based on the budget submitted by the district, the board of supervisors shall levy the tax as prescribed in section 48-807, subsection F.

D. Every budget adopted by a fire district shall include the annual estimate of revenues and expenses of the fire district for the preceding and current fiscal year fully itemized as prescribed on forms provided by the auditor general and shall include the following:

1. A certification by the chairperson and clerk of the district board as to both of the following:
   (a) That the district has not incurred any debt or liability in excess of taxes levied and to be collected and the money actually available and unencumbered at that time in the district general fund, except for those liabilities as prescribed in section 48-805, subsection B, paragraphs 2 and 3 and sections 48-806 and 48-807.
   (b) That the district complies with subsection F of this section.

2. The estimated number of full-time employees.

3. The total estimated personnel compensation, which shall separately state the employee salaries and employee-related expenses for retirement costs and health care costs.
4. THE AMOUNTS NECESSARY TO PAY THE INTEREST AND PRINCIPAL OF OUTSTANDING BONDS, AS APPROVED BY THE VOTERS PURSUANT TO SECTION 48-806, THE FIRE DISTRICT PROPOSES TO RAISE BY SECONDARY PROPERTY TAX LEVIES.

5. THE AMOUNTS NECESSARY TO CONSTRUCT, PURCHASE, LEASE AND LEASE-PURCHASE PROPERTY OF THE DISTRICT AS AUTHORIZED UNDER SECTION 48-805. SUBSECTION B.

6. AN AMOUNT FOR UNANTICIPATED CONTINGENCIES OR EMERGENCIES.

7. THE AMOUNTS THAT ARE ESTIMATED TO BE RECEIVED FROM SOURCES OTHER THAN DIRECT PROPERTY TAXES.

8. THE AMOUNTS LEVIED FOR FIRE DISTRICT OPERATIONS ON THE SECONDARY PROPERTY TAX ROLL.

9. THE AMOUNTS LEVIED BY THE FIRE DISTRICT ASSISTANCE TAX FOR DISTRIBUTION TO THE FIRE DISTRICT.

10. A SEPARATE STATEMENT OF THE SECONDARY PROPERTY TAX RATE FOR FIRE DISTRICT OPERATIONS AND THE REPAYMENT OF BONDS.

11. ANY AMOUNTS TO PRODUCE SERVICES, INCLUDING THOSE OF AN ORGANIZED PRIVATE FIRE PROTECTION PROVIDER OR A FIRE DEPARTMENT OF A NEIGHBORING CITY, TOWN OR FIRE DISTRICT, OR FOR EMERGENCY MEDICAL SERVICES.

12. ANY AMOUNTS OF ALL OTHER SERVICES AS AUTHORIZED UNDER SECTION 48-805, AS APPLICABLE.

13. THE BEGINNING FUND BALANCE, WHICH SHALL REFLECT THE RESTRICTED AND UNRESTRICTED UNENCUMBERED BALANCE FROM THE PRECEDING FISCAL YEAR.

2- 14. For each of the items listed in the PROPOSED budget summary approved pursuant to subsection A of this section, the district shall AN estimate OF THE revenue OR expense FOR the next two fiscal years. Estimates THE DISTRICT shall be based BASE THE ESTIMATE on the average increase OR decrease OF the item FOR the previous two fiscal years unless more certain information is available to the district. Estimates shall include any applicable levy OR rate limitations.

3- 15. If a district's total estimate OF expenses EXCEEDS its total estimate OF revenues FOR any fiscal year, the district shall undertake a study OF merger, consolidation OR joint operating alternatives. The study required BY this paragraph shall be presented to the fire district board in a special public meeting called FOR the sole purpose OF evaluating the study. The study shall include an identification OF districts available FOR merger, consolidation OR joint operations, AND an analysis OF the level OF service AND cost OF service THAT may BE provided TO the residents OF a merged, consolidated OR jointly operated district AS compared TO the level AND cost OF service TO the residents OF the districts WITHOUT any merger, consolidation OR joint operations.

E. For any district that amends its budget after its initial adoption, the district board shall hold a public hearing ON the proposed revision OF the budget. The proposed revised budget must be considered AND adopted during a public meeting immediately following the public hearing ON the proposal. The public hearing ON the proposed revised budget may BE held AT a regularly scheduled public meeting OF the board OF directors OF the district. A fire district that proposes TO amend its budget after its initial adoption shall comply WITH the posting, publishing AND hearing notice requirements prescribed IN subsection A OF this section. This subsection does not APPLY TO a district organized pursuant TO article 3 OF this chapter.
F. When a fire district has adopted a budget, the board of supervisors has levied a fire district tax as provided in subsection C of this section and the district has insufficient monies in its general fund with the county treasurer to operate the district, the CHAIRPERSON of the fire district board of directors, on or after August 1 of each year, may draw warrants, substitute checks or electronic funds transfers for the purposes prescribed in section 48-805 on the county treasurer, payable on November 1 of that year or on April 1 of the succeeding year. The aggregate amounts of the warrants, substitute checks or electronic funds transfers may not exceed ninety percent of the taxes levied by the county for the district's current fiscal year. If the treasurer cannot pay a warrant, substitute check or electronic funds transfer for lack of monies in the fire district general fund, the warrant or substitute check shall be endorsed and registered, or the electronic funds transfer shall be recorded, and the warrant, substitute check or electronic funds transfer shall bear interest and be redeemed as provided by law for county warrants, substitute checks or electronic funds transfers, except that the warrants, substitute checks or electronic funds transfers are payable only from the fire district general fund.

G. Any audit, report or review of a fire district made pursuant to section 48-253 shall be presented to the district board by the auditor telephonically or in another live electronic format during a public meeting of the board or, as directed by the board, in person at a public meeting of the board. The district board shall take formal action at the public meeting to review and receive the audit, report or review. THE AUDIT, REPORT OR REVIEW SHALL BE POSTED IN A PROMINENT LOCATION ON THE DISTRICT’S WEBSITE. FOR ANY FIRE DISTRICT THAT DOES NOT MAINTAIN AN OFFICIAL WEBSITE, THE FIRE DISTRICT SHALL COMPLY WITH THIS SUBSECTION BY POSTING THE AUDIT, REPORT OR REVIEW ON A WEBSITE OF AN ASSOCIATION OF FIRE DISTRICTS IN THIS STATE. The audit, report or review shall include an attestation by the auditor of the district as to all of the following:

1. That the district has not incurred any debt or liability in excess of taxes levied and to be collected and the monies actually available and unencumbered at that time in the district general fund[,] except for those liabilities as prescribed in section 48-805, subsection B, paragraphs 2 AND 3 and sections 48-806 and 48-807.

2. That the district complies with subsection F of this section.

3. Whether the audit, report or review disclosed any information contrary to the certification made as prescribed by subsection D, paragraph 1 of this section.
EXPLANATION OF BLEND
SECTION 48-822

Laws 2021, Chapters 145 and 158

Laws 2021, Ch. 145, section 4  Effective September 29, 2021
Laws 2021, Ch. 158, section 3  Effective September 29, 2021

Explanation

Since these two enactments are compatible, the Laws 2021, Ch. 145 and Ch. 158 text changes to section 48-822 are blended in the form shown on the following pages.
48-822. Election to consolidate fire districts: resolution: hearing

Ch. 145 A. Except as provided in subsection F OR H of this section, the board of supervisors shall make an order calling for an election to decide whether to consolidate two or more fire districts when a resolution for consolidation of fire districts from each district is submitted to the board of supervisors. The board of supervisors shall not make an order calling for an election to consolidate the same fire districts more frequently than once every two years. Whether or not the districts are consolidated, the participating fire districts are each liable to reimburse the counties for the expenses of the election, including the cost of mailing any notices. If the proposed district is located in more than one county, the resolutions shall be submitted to the board of supervisors of the county in which the majority of the assessed valuation of the proposed district is located as of the date of the adoption of the earliest resolution that called for the consolidation. The words appearing on the ballot shall be "(insert fire districts' names) consolidate as a fire district--yes" and "(insert fire districts' names) consolidate as fire district--no."

B. Within fourteen days after the election, the board of supervisors shall meet and canvass the returns, and if it is determined that a majority of the votes cast at the election in each of the affected districts is in favor of consolidating the fire districts, the board shall enter that fact on its minutes.

Ch. 158 C. Except as proscribed PRESCRIBED by subsection D of this section, a fire district may consolidate with one or more other fire districts formed pursuant to section 48-261 as follows:

1. A resolution requesting the consolidation of a fire district is passed by a majority vote of the governing body requesting consolidation into another fire district. The requesting district shall send by first class mail the notice of request to consolidate districts to the fire district in which the consolidation is requested.

2. On receipt of the resolution requesting consolidation, and on approval by majority vote of the governing body receiving the request, two or more fire districts may consolidate if the governing body of each affected fire district by a majority vote of the members of each governing body adopts a resolution declaring that a consolidation be considered and a public hearing be held to determine if a consolidation would be in the best interest of the districts and would promote the public safety, health, comfort, convenience, necessity or welfare. The governing body of each district that adopts a resolution calling for a public hearing by first class mail shall send notice of the day, hour and place of a hearing on the proposed consolidation to each owner of taxable property within the boundaries of the district. The notice shall state the purpose of the hearing and shall describe where information on the proposed consolidation may be obtained and
reviewed. The information on the proposed consolidation shall be posted prominently on each affected district's website. The information provided by the affected districts and posted to each affected district's website shall include the name and a general description of the boundaries of each district that is proposed to be consolidated and a general map of the area to be included in the consolidation. The information posted to the website of each affected district also shall include an estimate of the assessed value of the consolidated district, the estimated change in the property tax liability for a typical resident of the proposed consolidated district and a list of the benefits and injuries that may result from the proposed consolidated district. New territory may not be included as a result of the consolidation.

3. The clerk of the governing body of each of the fire districts affected by the proposed consolidation shall post notice in at least three conspicuous public places in the district and also shall publish or request to be published notice twice in a newspaper of general circulation in the county in which the district is located at least ten days before the public hearing. Publication by one affected district is sufficient for all affected districts if publication by more than one district would be duplicative. The clerk of each governing body affected by the proposed consolidation shall also mail notice and a copy of the resolution in support of considering consolidation to the chairman CHAIRPERSON of the board of supervisors of the county or counties in which the affected districts are located. The chairman CHAIRPERSON of the board of supervisors shall order a review of the proposed consolidation and may submit written comments to the governing body of each fire district located in the county within ten days after receipt of the notice.

4. At the hearing held as prescribed by paragraph 2 of this subsection, the governing body of the district shall consider the comments of the board of supervisors, hear those persons who appear for or against the proposed consolidation and determine whether the proposed consolidation will promote the public safety, health, comfort, convenience, necessity or welfare. If, after the public hearing, each of the governing bodies of the districts affected by the proposed consolidation adopt a resolution by a majority vote that the consolidation will promote the public safety, health, comfort, convenience, necessity or welfare, each of the governing bodies of the districts affected by the proposed consolidation shall submit the resolutions calling for an election to the board of supervisors.

5. If the proposal for consolidation is approved as provided in subsections A and B of this section OR IS APPROVED AS PROVIDED IN SUBSECTION F OR H OF THIS SECTION, the governing body of the district into which consolidation was requested shall by resolution declare the districts consolidated and each affected district joined. Those persons currently serving as the governing body of the district into which consolidation was requested shall serve as the governing body of the consolidated district and complete their regular terms of office. The consolidated district governing body shall consist of at least five members who shall immediately have the powers and duties prescribed by law for governance and operation of the requesting district. The district requesting consolidation may be temporarily operated by the consolidated district governing board to prevent service delivery interruption and for the purposes of transitioning personnel.
and transferring assets and liabilities. The consolidated district by operation of law is the continuation of the existing district into which consolidation was requested.

6. If the consolidated fire district is authorized to operate an ambulance service pursuant to title 36, chapter 21.1, article 2, the name of the ambulance service shall be changed administratively by the director of the department of health services to the name of the newly consolidated district and a hearing on the matter is not required pursuant to section 36-2234.

7. If a proposed consolidated district would include property located in an incorporated city or town, in addition to the other requirements of this section, the governing body of the district shall provide notice to the city or town of the proposed consolidation and shall consider comments of the city or town council concerning the proposed consolidation at the public hearing held as prescribed by paragraph 2 of this subsection.

8. Before considering any resolution of consolidation pursuant to this section, the governing body of each affected district shall obtain written consent to the consolidation from any single taxpayer residing within each of the affected districts who owns thirty percent or more of the net assessed valuation of the total net assessed valuation of the district as of the date of the adoption of the earliest resolution that called for the consolidation as prescribed in subsection A of this section. If one of the affected districts does not have a single taxpayer residing in the district who owns thirty percent or more of the net assessed valuation of the total net assessed valuation of the district, this paragraph does not apply to that district and written consent is not required for that district.

D. A noncontiguous county island fire district formed pursuant to section 48-851 shall not consolidate with a fire district formed pursuant to section 48-261.

E. The merger of two or more fire districts pursuant to section 48-820 or the consolidation with one or more fire districts pursuant to this section shall not expand the boundaries of an existing certificate of necessity unless authorized pursuant to title 36, chapter 21.1, article 2.

F. If the requirements of subsection C, paragraph 8 of this section are met and the governing body votes required by subsection C, paragraph 4 of this section are unanimous, the following apply:

1. The governing bodies of each or either affected district may choose to consolidate by unanimous resolution without an election and subsections A and B of this section do not apply.

2. The governing bodies of each or either affected district may choose to hold an election on the question of consolidation and subsections A and B of this section apply.

3. If fewer than all of the affected districts choose to hold an election, the proposed consolidation is not effective until approved at the election.

4. Consolidation may not occur unless each affected district approves the consolidation, either by resolution or by election.

G. If the consolidation is approved pursuant to subsection B or F of this section, the adopted fire code of the district into which the
consolidation was requested shall apply to the entirety of the newly consolidated district.

H. ON COMPLIANCE WITH SUBSECTION C, PARAGRAPH 8 OF THIS SECTION AND after the hearing prescribed by subsection C, paragraph 2 of this section and on compliance with subsection C, paragraph 5 of this section, the governing bodies of the affected districts may consolidate by a majority vote of each affected district's governing body and subsections A and B of this section do not apply if either of the following conditions is met:

1. An affected district has obtained a study of merger, consolidation or joint operating alternatives as required by section 48-805.02, subsection D, paragraph 3.

2. An affected district's tax rate is at or above the maximum allowable tax rate prescribed in section 48-807.
EXPLANATION OF BLEND
SECTION 49-202

Laws 2021, Chapters 88 and 325

Laws 2021, Ch. 88, section 2  Effective September 29, 2021
Laws 2021, Ch. 325, section 3  Effective September 29, 2021

Explanation

Since these two enactments are compatible, the Laws 2021, Ch. 88 and Ch. 325 text changes to section 49-202 are blended in the form shown on the following pages.
49-202. Designation of state agency

A. The department is designated as the agency for this state for all purposes of the clean water act, including section 505, the resource conservation and recovery act, including section 7002, and the safe drinking water act. The department may take all actions necessary to administer and enforce these acts as provided in this section, including entering into contracts, grants and agreements, the adoption, modification ADOPTING, MODIFYING or repeal of REPEALING rules, and initiating administrative and judicial actions to secure to this state the benefits, rights and remedies of such acts.

B. The department shall process requests under section 401 of the clean water act for certification of permits required by section 404 of the clean water act in accordance with subsections C through H-I of this section. Subsections C, and D, subsection E, paragraph 3, subsection F, paragraph 3 G and subsection H-I of this section apply to the certification of nationwide or general permits issued under section 404 of the clean water act. If the department has denied or failed to act on certification of a nationwide permit or general permit, subsections C through H-I of this section apply to the certification of applications for or notices of coverage under those permits.

C. The department shall review the application for section 401 certification solely to determine whether the effect of the discharge will comply with the water quality standards for navigable waters WOTUS established by department rules adopted pursuant to section 49-221, subsection A, and section 49-222. The department's review shall extend only to activities conducted within the ordinary high watermark of navigable waters WOTUS. To the extent that any other standards are considered applicable pursuant to section 401(a)(1) of the clean water act, certification of these standards is waived.

D. The department may include only those conditions on certification under section 401 of the clean water act that are required to ensure compliance with the standards identified in subsection C of this section. The department may impose reporting and monitoring requirements as conditions of certification under section 401 of the clean water act only in accordance with department rules.

E. Until January 1, 1999:

1. The department may request supplemental information from the section 401 certification applicant if the information is necessary to make the certification determination pursuant to subsection C of this section. The department shall request this information in writing within thirty calendar days after receipt of the application for section 401 certification. The request shall specifically describe the information
requested. Within fifteen calendar days after receipt of the applicant's written response to a request for supplemental information, the department shall either issue a written determination that the application is complete or request specific additional information. The applicant may deem any additional requests for supplemental information as a denial of certification for purposes of subsection H of this section. If the department fails to act within the time limits prescribed by this subsection, the application is deemed complete.

2. The department shall grant or deny section 401 certification and shall send a written notice of the department's decision to the applicant within thirty calendar days after receipt of a complete application for certification. Written notice of a denial of section 401 certification shall include a detailed description of the reasons for denial.

3. The department may waive its right to certification by giving written notice of that waiver to the applicant. The department's failure to grant or deny an application within the time limits prescribed by this section is deemed a waiver of certification pursuant to this subsection and section 401(a)(2) of the clean water act.

F. Beginning January 1, 1997:

1. E. The department may request supplemental information from the section 401 certification applicant if the information is necessary to make the certification determination pursuant to subsection C of this section. The department shall request this information in writing. The request shall specifically describe the information requested. After receipt of the applicant's written response to a request for supplemental information, the department shall either issue a written determination that the application is complete or request specific additional information. The applicant may deem any additional requests for supplemental information as a denial of certification for purposes of subsection H-I of this section. In all other instances, the application is complete on submission of the information requested by the department.

2. F. The department shall grant or deny section 401 certification and shall send a written notice of the department's decision to the applicant after receipt of a complete application for certification. Written notice of a denial of section 401 certification shall include a detailed description of the reasons for denial.

3. G. The department may waive its right to certification by giving written notice of that waiver to the applicant. The department's failure to act on an application is deemed a waiver pursuant to this subsection and section 401(a)(2) of the clean water act.

4. H. The department shall adopt rules specifying the information the department requires an applicant to submit under this section in order to make the determination required by subsections C and D of this section. Until these rules are adopted, the department shall require an applicant to submit only the following information for certification under this section:

1. The name, address and telephone number of the applicant.
2. A description of the project to be certified, including an identification of the navigable waters WOTUS in which the certified activities will occur.

3. The project location, including latitude, longitude and a legal description.

4. A United States geological service topographic map or other contour map of the project area, if available.

5. A map delineating the ordinary high watermark of navigable waters WOTUS affected by the activity to be certified.

6. A description of any measures to be applied to the activities being certified in order to control the discharge of pollutants to navigable waters WOTUS from those activities.

7. A description of the materials being discharged to or placed in navigable waters WOTUS.

8. A copy of the application for a federal permit or license that is the subject of the requested certification.

I. Pursuant to title 41, chapter 6, article 10 an applicant for certification may appeal a denial of certification or any conditions imposed on certification. Any person who is or may be adversely affected by the denial of or imposition of conditions on the certification of a nationwide or general permit may appeal that decision pursuant to title 41, chapter 6, article 10.

J. Certification under section 401 of the clean water act is automatically granted for quarrying, crushing and screening of nonmetallic minerals in ephemeral waters if all of the following conditions are satisfied within the ordinary high watermark of jurisdictional waters:

1. There is no disposal of construction and demolition wastes and contaminated wastewater.

2. Water for dust suppression, if used, does not contain contaminants that could violate water quality standards.

3. Pollution from the operation of equipment in the mining area is removed and properly disposed.

4. Stockpiles of processed materials containing ten percent or more of particles of silt are placed or stabilized to minimize loss or erosion during flow events. As used in FOR THE PURPOSES OF this paragraph, "silt" means particles finer than 0.0625 millimeter diameter on a dry weight basis.

5. Measures are implemented to minimize upstream and downstream scour during flood events to protect the integrity of buried pipelines.

6. On completion of quarrying operations in an area, areas denuded of shrubs and woody vegetation are revegetated to the maximum extent practicable.

K. For [THE] purposes of subsection J of this section, "ephemeral waters" means waters of the state that have been designated as ephemeral in rules adopted by the department.

L. Certification under section 401 of the clean water act is automatically granted for any license or permit required for:

1. Corrective actions taken pursuant to chapter 6, article 1 of this title in response to a release of a regulated substance as defined
in section 49-1001 except for those off-site facilities that receive for treatment or disposal materials that are contaminated with a regulated substance and that are received as part of a corrective action.

2. Response or remedial actions undertaken pursuant to chapter 2, article 5 of this title or pursuant to CERCLA.

3. Corrective actions taken pursuant to chapter 5, article 1 of this title or the resource conservation [AND] recovery act of 1978, as amended (42 United States Code sections 6901 through 6992).

4. Other remedial actions that have been reviewed and approved by the appropriate government authority and taken pursuant to applicable federal or state laws.

M. The department of environmental quality is designated as the state water pollution control agency for this state for all purposes of CERCLA, except that the department of water resources has joint authority with the department of environmental quality to conduct feasibility studies and remedial investigations relating to groundwater quality and may enter into contracts and cooperative agreements under section 104 of CERCLA for such studies and remedial investigations. The department of environmental quality may take all action necessary or appropriate to secure to this state the benefits of the act, and all such action shall be taken at the direction of the director of environmental quality as THE DIRECTOR'S duties are prescribed in this chapter.

N. The director and the department of environmental quality may enter into an interagency contract or agreement with the director of water resources under title 11, chapter 7, article 3 to implement the provisions of section 104 of CERCLA and to carry out the purposes of subsection M of this section.
EXPLANATION OF BLEND
SECTION 49-250

Laws 2021, Chapters 32, 88 and 325

Laws 2021, Ch. 32, section 1  
Effective September 29, 2021

Laws 2021, Ch. 88, section 3  
Effective September 29, 2021

Laws 2021, Ch. 325, section 17  
Effective September 29, 2021

Explanation

Since these three enactments are compatible, the Laws 2021, Ch. 32, Ch. 88 and Ch. 325 text changes to section 49-250 are blended in the form shown on the following pages.
49-250. Exemptions

A. The director may, by rule, exempt specifically described classes or categories of facilities from the aquifer protection permit requirements of this article on a finding either that there is no reasonable probability of degradation of the aquifer or that aquifer water quality will be maintained and protected because the discharges from the facilities are regulated under other federal or state programs that provide the same or greater aquifer water quality protection as provided by this article.

B. The following are exempt from the aquifer protection permit requirement of this article:

1. Household and domestic activities.
2. Household gardening, lawn watering, lawn care, landscape maintenance and related activities.
3. The noncommercial use of consumer products generally available to and used by the public.
4. Ponds used for watering livestock and wildlife.
5. Mining overburden returned to the excavation site including any common material that has been excavated and removed from the excavation site and has not been subjected to any chemical or leaching agent or process of any kind.
6. Facilities used solely for surface transportation or storage of groundwater, surface water for beneficial use or reclaimed water that is regulated pursuant to section 49-203, subsection A, paragraph 8-7 for beneficial use.
7. Discharge to a community sewer system.
8. Facilities that are required to obtain a permit for the direct reuse of reclaimed water.
9. Leachate resulting from the direct, natural infiltration of precipitation through undisturbed regolith or bedrock if pollutants are not added to the leachate as a result of any material or activity placed or conducted by man on the ground surface.
10. Surface impoundments used solely to contain storm runoff, except for surface impoundments regulated by the federal clean water act or article 3.1 of this chapter.
11. Closed facilities. However, if the facility ever resumes operation the facility shall obtain an aquifer protection permit and the facility shall be treated as a new facility for purposes of section 49-243.
12. Facilities for the storage of water pursuant to title 45, chapter 3.1 unless reclaimed water is added.
13. Facilities using central Arizona project water for underground storage and recovery projects under title 45, chapter 3.1, article 6.

14. Water storage at a groundwater saving facility that has been permitted under title 45, chapter 3.1.

15. Application of water from any source, including groundwater, surface water or wastewater, to grow agricultural crops or for landscaping purposes, except as provided in section 49-247.

16. Discharges to a facility that is exempt pursuant to paragraph 6 OF THIS SUBSECTION if those discharges are regulated pursuant to 33 United States Code section 1342 OR ARTICLE 3.1 OF THIS CHAPTER.

17. Solid waste and special waste facilities if rules addressing aquifer protection are adopted by the director pursuant to section 49-761 or 49-855 and those facilities obtain plan approval pursuant to those rules. This exemption shall apply ONLY if the director determines that aquifer water quality standards will be maintained and protected because the discharges from those facilities are regulated under rules adopted pursuant to section 49-761 or 49-855 that provide aquifer water quality protection that is equal to or greater than aquifer water quality protection provided pursuant to this article.

18. Facilities used in:
   (a) Corrective actions taken pursuant to chapter 6, article 1 of this title in response to a release of a regulated substance as defined in section 49-1001 except for those off-site facilities that receive for treatment or disposal of materials that are contaminated with a regulated substance and that are received as part of a corrective action.
   (b) Response or remedial actions undertaken pursuant to article 5 of this chapter or pursuant to CERCLA.
   (c) Corrective actions taken pursuant to chapter 5, article 1 of this title or the resource conservation and recovery act of 1976, as amended (42 United States Code sections 6901 through 6992).
   (d) Other remedial actions that have been reviewed and approved by the appropriate governmental authority and taken pursuant to applicable federal or state laws.

19. Municipal solid waste landfills as defined in section 49-701 that have solid waste facility plan approval pursuant to section 49-762.

20. Storage, treatment or disposal of inert material.

21. Structures that are designed and constructed not to discharge and that are built on an impermeable barrier that can be visually inspected for leakage.

22. Pipelines and tanks designed, constructed, operated and regularly maintained so as not to discharge.

23. Surface impoundments and dry wells that are used to contain storm water in combination with discharges from one or more of the following activities or sources:
   (a) Firefighting system testing and maintenance.
   (b) Potable water sources, including waterline flushings.
   (c) Irrigation drainage and lawn watering.
   (d) Routine external building wash down without detergents.
(e) Pavement wash water where IF no spills or leaks of toxic or hazardous material have occurred unless all spilled material has first been removed and no detergents have been used.

(f) Air conditioning, compressor and steam equipment condensate that has not contacted a hazardous or toxic material.

(g) Foundation or footing drains in which flows are not contaminated with process materials.

(h) Occupational safety and health administration or mining safety and health administration safety equipment.

24. Industrial wastewater treatment facilities designed, constructed and operated as required by section 49-243, subsection B, paragraph 1 and using a treatment system approved by the director to treat wastewater to meet aquifer water quality standards prior to discharge, if that water is stored at a groundwater storage facility pursuant to title 45, chapter 3.1.

25. Any point source discharge caused by a storm event and authorized in a permit issued pursuant to section 402 of the clean water act or an Arizona pollutant discharge elimination system permit under article 3.1 of this chapter.

26. Except for class V wells that are operating as prescribed by rules adopted pursuant to article 3.3 of this chapter or 42 United States Code section 300h-1(c), any underground injection well covered by a permit issued under article 3.3 of this chapter or under 42 United States Code section 300h-1(c). This exemption does not apply until the date that the United States environmental protection agency approves the department's underground injection control permit program established pursuant to article 3.3 of this chapter.
EXPLANATION OF BLEND
SECTION 49-255.01

Laws 2021, Chapters 285 and 325

Laws 2021, Ch. 285, section 61  Effective September 29, 2021
   (Retroactive to July 1, 2021)

Laws 2021, Ch. 325, section 19  Effective September 29, 2021

Explanation

Since these two enactments are compatible, the Laws 2021, Ch. 285 and Ch. 325 text changes to section 49-255.01 are blended in the form shown on the following pages.
49-255.01. Arizona pollutant discharge elimination system program; rules and standards; affirmative defense; fees; general permit

A. A person shall not discharge except under either of the following conditions:
   1. In conformance with a permit that is issued or authorized under this article OR RULES AUTHORIZED UNDER SECTION 49-203, SUBSECTION A, PARAGRAPH 2.
   2. Pursuant to a permit that is issued or authorized by the United States environmental protection agency until a permit that is issued or authorized under this article takes effect.

B. The director shall adopt rules to establish an AZPDES permit program FOR DISCHARGES TO WOTUS consistent with the requirements of sections 402(b) and 402(p) of the clean water act. This program shall include requirements to ensure compliance with section 307 and requirements for the control of discharges consistent with sections 318 and 405(a) of the clean water act. The director shall not adopt any requirement FOR WOTUS that is more stringent than or conflicts with any requirement of the clean water act. THE DIRECTOR SHALL NOT ADOPT ANY REQUIREMENT THAT CONFLICTS WITH ANY REQUIREMENT OF THE CLEAN WATER ACT. The director may adopt federal rules pursuant to section 41-1028 or may adopt rules to reflect local environmental conditions to the extent that the rules are consistent with and NOT more stringent than the clean water act and this article.

C. The rules adopted by the director UNDER SUBSECTION B OF THIS SECTION shall provide for:
   1. Issuing, authorizing, denying, modifying, suspending or revoking individual or general permits.
   2. Establishment of permit conditions, discharge limitations and standards of performance as prescribed by section 49-203, subsection A, paragraph 7, 8 including case by case CASE-BY-CASE effluent limitations that are developed in a manner consistent with 40 Code of Federal Regulations section 125.3(c).
   3. Modifications and variances as allowed by the clean water act.
   4. Other provisions necessary for maintaining state program authority under section 402(b) of the clean water act.

D. This article does not affect the validity of any existing rules that are adopted by the director and that are equivalent to and consistent with the national pollutant discharge elimination system program authorized under section 402 of the clean water act until new rules for AZPDES discharges are adopted pursuant to this article.

E. An upset constitutes an affirmative defense to any administrative, civil or criminal enforcement action brought for noncompliance with
technology-based permit discharge limitations if the permittee complies with all of the following:

1. The permittee demonstrates through properly signed contemporaneous operating logs or other relevant evidence that:
   (a) An upset occurred and that the permittee can identify the specific cause of the upset.
   (b) The permitted facility was being properly operated at the time of the upset.
   (c) If the upset causes the discharge to exceed any discharge limitation in the permit, the permittee submitted notice to the department within twenty-four hours of AFTER the upset.
   (d) The permittee has taken appropriate remedial measures including all reasonable steps to minimize or prevent any discharge or sewage sludge use or disposal that is in violation of the permit and that has a reasonable likelihood of adversely affecting human health or the environment.

2. In any administrative, civil or criminal enforcement action, the permittee shall prove, by a preponderance of the evidence, the occurrence of an upset condition.

F. Compliance with a permit issued pursuant to this article shall be deemed compliance with both of the following:

1. All requirements in this article or rules adopted pursuant to this article relating to state implementation of sections 301, 302, 306 and 307 of the clean water act, except for any standard that is imposed under section 307 of the clean water act for a toxic pollutant that is injurious to human health.

2. Limitations for pollutants in navigable waters WOTUS adopted pursuant to sections 49-221 and 49-222, if the discharge of the pollutant is specifically limited in a permit issued pursuant to this article or the pollutant was specifically identified as present or potentially present in facility discharges during the application process for the permit.

G. Notwithstanding section 49-203, subsection D, permits that are issued under this article shall not be combined with permits issued under article 3 of this chapter.

H. The decision of the director to issue or modify a permit takes effect on issuance if there were no changes requested in comments that were submitted on the draft permit unless a later effective date is specified in the decision. In all other cases, the decision of the director to issue, deny, modify, suspend or revoke a permit takes effect thirty days after the decision is served on the permit applicant, unless either of the following applies:

1. Within the thirty day THIRTY-DAY period, an appeal is filed with the water quality appeals board pursuant to section 49-323.
   2. A later effective date is specified in the decision.
   1. In addition to other reservations of rights provided by this chapter, nothing in this article shall DOES NOT impair or affect rights or the exercise of rights to water claimed, recognized, permitted, certificated, adjudicated or decreed pursuant to state or other law.

3. Only for a one-time rule making ONETIME RULEMAKING after July 29, 2010, the director shall establish by rule fees, including maximum fees, for processing, issuing and denying an application for a permit pursuant to this
section. After the [ONE-TIME] rule-making [ONETIME] RULEMAKING, the director shall not increase those fees by rule without specific statutory authority for the increase. Monies collected pursuant to this section shall be deposited, pursuant to sections 35-146 and 35-147, in the water quality fee fund established by section 49-210.

K. Any permit conditions concerning threatened or endangered species shall be limited to those required by the endangered species act.

L. When developing a general permit for discharges of storm water from construction activity, the director shall provide for reduced control measures at sites that retain storm water in a manner that eliminates discharges from the site, except for the occurrence of an extreme event. Reduced control measures shall be available if all of the following conditions are met:

1. The nearest downstream receiving water is ephemeral and the construction site is a sufficient distance from a water warranting additional protection as described in the general permit.

2. The construction activity occurs on a site designed so that all storm water generated by disturbed areas of the site exclusive of public rights-of-way is directed to one or more retention basins that are designed to retain the runoff from an extreme event. For the purposes of this subsection, "extreme event" means a rainfall event that meets or exceeds the local one hundred-year, two-hour storm event as calculated by an Arizona registered professional engineer using industry practices.

3. The owner or operator complies with good housekeeping measures included in the general permit.

4. The owner or operator maintains the capacity of the retention basins.

5. Construction conforms to the standards prescribed by this section.

M. If the director commences proceedings for the renewal of a general permit issued pursuant to this article, the existing general permit shall not expire and coverage may continue to be obtained by new dischargers until the proceedings have resulted in a final determination by the director. If the proceedings result in a decision not to renew the general permit, the existing general permit shall continue in effect until the last day for filing for review of the decision of the director not to renew the permit or until any later date that is fixed by court order.

N. This program is exempt from section 41-3102.
EXPLANATION OF BLEND
SECTION 49-256.01

Laws 2021, Chapters 285 and 325

Laws 2021, Ch. 285, section 62  Effective September 29, 2021
(Retroactive to July 1, 2021)

Laws 2021, Ch. 325, section 24  Effective September 29, 2021

Explanation

Since these two enactments are compatible, the Laws 2021, Ch. 285 and Ch. 325 text changes to section 49-256.01 are blended in the form shown on the following pages.

A. For purposes of implementing TO IMPLEMENT the permit program established by 33 United States Code section 1344, the director may establish by rule a dredge and fill permit program that is consistent with and NOT more stringent than the clean water act dredge and fill program, including a permitting process.

B. During any period in which the state has been granted authority to administer the permit program established by 33 United States Code section 1344, a person may not discharge dredged or fill material unless the discharge is exempt under 33 United States Code section 1344(f) or rules adopted pursuant to this article, except under either of the following conditions:

1. In conformance with a permit that is issued or authorized under this article.

2. Pursuant to a permit that is issued or authorized by the United States army corps of engineers until a permit that is issued or authorized under this article takes effect.

C. Rules adopted by the director for the purposes of a permit program for dredge and fill shall:

1. Provide for issuing, authorizing, denying, modifying, suspending or revoking individual permits, general permits and emergency permits for the discharge of dredged or fill material into navigable waters WOTUS regulated by this state under the clean water act for purposes of implementing the permit program established by 33 United States Code section 1344.

2. Establish permit conditions that ensure compliance with the applicable requirements of section 404 of the clean water act, including the guidelines issued under 33 United States Code section 1344(b)(1).

3. Establish maintenance, monitoring, sampling, reporting, recordkeeping and any other permitting requirements as necessary to maintain primary enforcement responsibility or to determine compliance with this article.

4. Establish the following in accordance with 33 United States Code section 1344:

   (a) Circumstances and activities that do not require a dredge or fill permit.

   (b) Activities that are exempt from the requirements of this article for any discharge or fill material that may result from those activities, and the conditions under which those activities are exempt.

   (c) Circumstances under which a discharge of dredged or fill material shall not be permitted.
5. Establish procedures for the director to make jurisdictional determinations that determine whether a wetland or waterbody is a navigable water WOTUS subject to regulatory jurisdiction under this article. Jurisdictional determinations:
   (a) Shall be in writing and be identified as either preliminary or approved.
   (b) Do not include determinations that a particular activity requires a permit under this article.

6. Establish public notice and comment procedures as necessary to maintain primacy for the dredge and fill PERMIT program and as the director deems appropriate to inform the public.

7. Provide for any other provisions necessary to maintain state primary enforcement responsibility under 33 United States Code section 1344 and to implement the provisions of this article.

D. Approved jurisdictional determinations are appealable agency actions as defined by section 41-1092 and may be appealed by a party affected by a jurisdictional determination. Preliminary jurisdictional determinations are not appealable agency actions and notwithstanding section 41-1092.03, the right to appeal an approved jurisdictional determination does not extend to adjacent landowners or to third parties that are not parties affected by a jurisdictional determination.

E. On assuming authority to administer the permit program established by 33 United States Code section 1344, the department shall:
   1. On request by a party affected by a jurisdictional determination, recognize and adopt any existing approved jurisdictional determinations that were originally issued by the United States army corps of engineers if the federal definition of navigable waters WOTUS that is applicable in this state has not changed since the issuance of the approved jurisdictional determinations.
   2. On request by a party affected by a jurisdictional determination, renew approved jurisdictional determinations that were originally issued by the United States army corps of engineers on the same terms as the original unless:
      (a) Physical changes have occurred affecting the determination that are likely to alter the jurisdictional status.
      (b) The federal definition of navigable waters WOTUS that is applicable in this state has changed since the issuance of the approved jurisdictional determinations.
      (c) Additional field data show that the original determination was based on inaccurate data and the new data warrant a revision to the original determination.

F. The program established pursuant to this article is exempt from section 41-3102.
EXPLANATION OF BLEND
SECTION 49-257.01

Laws 2021, Chapters 32 and 285

Laws 2021, Ch. 32, section 2
Effective September 29, 2021

Laws 2021, Ch. 285, section 63
Effective September 29, 2021

Explanation

Since these two enactments are compatible, the Laws 2021, Ch. 32 and Ch. 285 text changes to section 49-257.01 are blended in the form shown on the following page.
49-257.01. **Underground injection control permit program: permits; prohibitions; rules**

A. The department shall establish an underground injection control permit program, including a permitting process.

B. An underground injection is prohibited unless the underground injection is into a well authorized by rule or unless it is authorized by a permit issued pursuant to this article or by a permit issued by the United States environmental protection agency. A person may not construct any well that is required to have a permit until the person is issued the permit or is otherwise authorized under the permit program established pursuant to this article or federal law.

C. Any underground injection activity is prohibited if it is conducted in a manner that allows the movement of fluid containing any contaminant into underground sources of drinking water and if the presence of that contaminant may endanger underground sources of drinking water.

D. Notwithstanding subsection A of this section, a class V well is exempt from this article if the well has an aquifer protection permit obtained pursuant to article 3 of this chapter and that permit satisfies federal underground injection control requirements for a class V well.

E. The director shall adopt rules for the purposes of establishing and operating the underground injection control permit program pursuant to this article. Rules adopted by the director shall meet the minimum requirements prescribed by 42 United States Code section 300h(b).

F. The program established pursuant to this article is exempt from section 41-3102.
EXPLANATION OF BLEND
SECTION 49-262

Laws 2021, Chapters 214 and 325

Laws 2021, Ch. 214, section 1  Effective September 29, 2021
Laws 2021, Ch. 325, section 27  Effective September 29, 2021

Explanation

Since these two enactments are compatible, the Laws 2021, Ch. 214 and Ch. 325 text changes to section 49-262 are blended in the form shown on the following pages.
BLEND OF SECTION 49-262
Laws 2021, Chapters 214 and 325

49-262. Injunctive relief; civil penalties; recovery of litigation costs; affirmative defense

A. Whether or not a person has requested a hearing, the director, through the attorney general, may request a temporary restraining order, a preliminary injunction, a permanent injunction or any other relief necessary to protect the public health if the director has reason to believe either of the following:

1. That a person is in violation of:
   (a) Any provision of article 2, 3, 3.1, 3.2 or 3.3 of this chapter.
   (b) A rule adopted pursuant to section 49-203, subsection A, paragraph 6-7.
   (c) A rule adopted pursuant to article 2, 3, 3.1, 3.2 or 3.3 of this chapter.
   (d) A discharge limitation or any other condition of a permit issued under article 2, 3, 3.1, 3.2 or 3.3 of this chapter.

2. That a person is creating an actual or potential endangerment to the public health or environment because of acts performed in violation of that violate this chapter.

B. Notwithstanding any other provision of this chapter, if the director, the county attorney or the attorney general has reason to believe that a person is creating an imminent and substantial endangerment to the public health or environment because of acts performed in violation of that violate article 2, 3, 3.1, 3.2 or 3.3 of this chapter or a rule adopted or a condition of a permit issued pursuant to section 49-203, subsection A, paragraph 2, 6-7 or 7-8, the county attorney or attorney general may request a temporary restraining order, a preliminary injunction, a permanent injunction or any other relief necessary to protect the public health.

C. A person who violates any provision of article 2, 3, 3.1 or 3.2 of this chapter or a rule, permit, discharge limitation or order issued or adopted pursuant to article 2, 3, 3.1 or 3.2 of this chapter is subject to a civil penalty of not more than $25,000 per day per violation. A person who violates any rule adopted or a condition of a permit issued pursuant to section 49-203, subsection A, paragraph 6-7 is subject to a civil penalty of not more than $5,000 per day per violation. A person who violates any rule adopted, permit condition or other provision of article 3.3 of this chapter is subject to a civil penalty of not more than $5,000 per day per violation. The attorney general may, and at the request of the director shall, commence an action in superior court to recover civil penalties provided by this section.

D. The court, in issuing any final order in any civil action brought under this section, may award costs of litigation, including reasonable attorney and expert witness fees, to any substantially prevailing party if
the court determines such an award is appropriate. If a temporary restraining order is sought, the court may require the filing of a bond or equivalent security.

E. All civil penalties except litigation costs obtained under this section shall be deposited, pursuant to sections 35-146 and 35-147, in the state general fund.

F. Except as applied to permits issued or authorized pursuant to article 3.1, 3.2 or 3.3 of this chapter, it is an affirmative defense to civil liability under this section and section 49-261 for causing or contributing to a violation of a water quality standard established pursuant to this chapter, or a violation of a permit condition prohibiting a violation of an aquifer water quality standard or limitation at the point of compliance or a surface water quality standard if the release that caused or contributed to the violation came from a facility owned or operated by a party that has either:

1. Undertaken a remedial or response action approved by the director or the administrator under this title or CERCLA in response to the release of a hazardous substance, pollutant or contaminant that caused or contributed to the violation of article 2 of this chapter and is in compliance with that remedial or response action.

2. Otherwise resolved its liability for the release of a hazardous substance that caused or contributed to the violation of article 2 of this chapter in whole or in part by the execution of a settlement agreement or consent decree with the director or administrator under this article, CERCLA or any other environmental law and is in compliance with that settlement agreement or consent decree.

G. Subsection F of this section does not prevent the director from taking an appropriate enforcement action to address the release of a hazardous substance, pollutant or contaminant or the violation of a permit condition before or as an element of an approved remedial or response action, settlement agreement or consent decree.

H. In determining the amount of a civil penalty for a violation under article 3, 3.1, 3.2 or 3.3 of this chapter, the court shall consider the following factors:

1. The seriousness of the violation or violations.
2. The economic benefit, if any, that results from the violation.
3. Any history of similar violations.
4. Any good faith efforts to comply with the applicable requirements.
5. The economic impact of the penalty on the violator.
6. The extent to which the violation was caused by a third party.
7. Other matters as justice may require.

I. A single operational upset that leads to simultaneous violations of more than one pollutant limitation in a permit issued or authorized pursuant to section 49-255.01 constitutes a single violation for purposes of any penalty calculation.

J. If a permittee holds both a permit issued or authorized pursuant to article 3 of this chapter and a permit issued or authorized pursuant to article 3.1, 3.2 or 3.3 of this chapter and the permittee violates a similar provision in both permits simultaneously, the department shall not recover penalties for violations of both permits based on the same act or omission.
K. For a wastewater treatment facility or system that is regulated as a public service corporation by the corporation commission, the department may make a written request to the CHAIRPERSON AND EXECUTIVE DIRECTOR OF THE corporation commission to take necessary corrective actions, AND THE CORPORATION COMMISSION SHALL COMMENCE NECESSARY CORRECTIVE ACTIONS within thirty calendar days after both of the following occur:

1. The department does any one or more of the following:
   (a) Determines that the wastewater treatment facility or system is out of compliance with an administrative order issued by the department for a violation of this chapter.
   (b) Files a civil action against the owner or operator of the wastewater treatment facility or system for a violation of this chapter.
   (c) Determines that an emergency exists with respect to the wastewater treatment facility or system.

2. The department determines that the corporation commission taking necessary corrective actions would expedite the wastewater treatment facility's or system's return to compliance with this chapter.

L. IF THE DEPARTMENT MAKES A WRITTEN REQUEST TO THE CORPORATION COMMISSION AS PRESCRIBED BY SUBSECTION K OF THIS SECTION, THE DEPARTMENT SHALL PROVIDE A COPY OF THE REQUEST TO THE GOVERNING BODY OF ANY LOCAL JURISDICTION WITH RESIDENTS SERVED BY THE FACILITY OR SYSTEM THAT IS THE SUBJECT OF THE REQUEST.
EXPLANATION OF BLEND
SECTION 49-542

Laws 2021, Chapters 27 and 116

Laws 2021, Ch. 27, section 3
Conditionally Effective

Laws 2021, Ch. 116, section 1
Effective September 29, 2021

Explanation

Since these two enactments are compatible, the Laws 2021, Ch. 27, section 3 and Ch. 116 text changes to section 49-542 are blended in the form shown on the following pages.
49-542. **Emissions inspection program: powers and duties of director; administration; periodic inspection; minimum standards and rules; exceptions; definition**

A. The director shall administer a comprehensive annual or biennial emissions inspection program that shall require the inspection of vehicles in this state pursuant to this article and applicable administrative rules. Such inspection is required for vehicles that are registered in area A and area B, for those vehicles owned by a person who is subject to section 15-1444 or 15-1627 and for those vehicles registered outside of area A or area B but used to commute to the driver’s principal place of employment located within area A or area B. Inspection in other counties of the state shall commence on the director’s approval of an application by a county board of supervisors for participation in such inspection program. In all counties with a population of three hundred fifty thousand or fewer persons, except for the portion of counties that contain any portion of area A, the director shall as conditions dictate provide for testing to determine the effect of vehicle-related pollution on ambient air quality in all communities with a metropolitan area population of twenty thousand persons or more. If such testing detects the violation of state ambient air quality standards by vehicle-related pollution, the director shall forward a full report of such violation to the president of the senate, the speaker of the house of representatives and the governor.

B. The state's annual or biennial emissions inspection program shall provide for vehicle inspections at official emissions inspection stations or at fleet emissions inspection stations or may provide for remote vehicle inspection. Each official inspection station in area A shall employ at least one technical assistant who is available during the station’s hours of operation to provide assistance for persons who fail the emissions test. An official or fleet emissions inspection station permit shall not be sold, assigned, transferred, conveyed or removed to another location except on such terms and conditions as the director may prescribe. The director shall establish a pilot program to provide for remote vehicle inspections in area A and area B. The director shall operate the pilot program for at least three consecutive years and shall complete the pilot program before July 1, 2025. On completion of the pilot program, the director shall submit to the joint legislative budget committee and the office of the governor a report summarizing the results of the pilot program. The director shall submit the report before the department implements any full scale remote vehicle inspection program and shall include in the report a summary of the data collected during the pilot program and a certification by the director that, based on the data collected during the pilot program, a full scale implementation of a remote vehicle inspection program will increase the efficiency and reduce the costs of the vehicle emissions inspection program.
C. Vehicles required to be inspected and registered in this state, except those provided for in section 49-546, shall be inspected, for the purpose of complying with the registration requirement pursuant to subsection D of this section, in accordance with the provisions of this article NOT more than ninety days before each registration expiration date. A vehicle may be submitted voluntarily for inspection more than ninety days before the registration expiration date on payment of the prescribed inspection fee. That voluntary inspection may be considered as compliance with the registration requirement pursuant to subsection D of this section only on conditions prescribed by the director.

D. A vehicle shall not be registered until such vehicle has passed the emissions inspection and the tampering inspection prescribed in subsection G of this section or has been issued a certificate of waiver. A certificate of waiver shall only be issued one time to a vehicle after January 1, 1997. If any vehicle to be registered is being sold by a dealer licensed to sell motor vehicles pursuant to title 28, the cost of any inspection and any repairs necessary to pass the inspection shall be borne by the dealer. A dealer who is licensed to sell motor vehicles pursuant to title 28 and whose place of business is located in area A or area B shall not deliver any vehicle to the retail purchaser until the vehicle passes any inspection required by this article, EXCEPT IF THE VEHICLE IS A COLLECTIBLE VEHICLE AND THE RETAIL PURCHASER OBTAINS COLLECTIBLE VEHICLE OR CLASSIC AUTOMOBILE INSURANCE COVERAGE AS PRESCRIBED IN SUBSECTION Z OF THIS SECTION BEFORE DELIVERY OR the vehicle is OTHERWISE exempt under subsection J of this section.

E. On the registration of a vehicle that has complied with the minimum emissions standards pursuant to this section or is otherwise exempt under this section, the registering officer shall issue an air quality compliance sticker to the registered owner that shall be placed on the vehicle as prescribed by rule adopted by the department of transportation or issue a modified year validating tab as prescribed by rule adopted by the department of transportation. Those persons who reside outside of area A or area B but who elect to test their vehicle or are required to test their vehicle pursuant to this section and who comply with the minimum emissions standards pursuant to this section or are otherwise exempt under this section shall remit a compliance form, as prescribed by the department of transportation, and proof of compliance issued at an official emissions inspection station to the department of transportation along with the appropriate fees. The department of transportation shall then issue the person an air quality compliance sticker that shall be placed on the vehicle as prescribed by rule adopted by the department of transportation. The registering officer or the department of transportation shall collect an air quality compliance fee of $25. The registering officer or the department of transportation shall deposit, pursuant to sections 35-146 and 35-147, the air quality compliance fee in the state highway fund established by section 28-6991. The department of transportation shall deposit, pursuant to sections 35-146 and 35-147, any emissions inspection fee in the emissions inspection fund. The provisions of this subsection do not apply to those vehicles registered pursuant to title 28, chapter 7, article 7 or 8, the sale of vehicles between motor vehicle dealers or vehicles leased to a person residing outside of area A or area B by a leasing company whose place of business is in area A or area B.
F. The director shall adopt minimum emissions standards pursuant to section 49-447 with which the various classes of vehicles shall be required to comply as follows:

1. For the purpose of determining compliance with minimum emissions standards in area B:
   (a) A motor vehicle manufactured in or before the 1980 model year, other than a diesel powered vehicle, shall be required to take and pass the curb idle test. A diesel powered vehicle is subject to only a loaded test. The conditioning mode, at the option of the vehicle owner or owner's agent, shall be administered only after the vehicle has failed the curb idle test. On completion of such conditioning mode, a vehicle that has failed the curb idle test may be retested in the curb idle test. If the vehicle passes such retest, it is deemed in compliance with minimum emissions standards unless the vehicle fails the tampering inspection pursuant to subsection G of this section.
   (b) A motor vehicle manufactured in or after the 1981 model year, other than a diesel powered vehicle, shall be required to take and pass the curb idle test and the loaded test or an onboard diagnostic check as may be required pursuant to title II of the clean air act.

2. For the purposes of determining compliance with minimum emissions standards and functional tests in area A:
   (a) Motor vehicles manufactured in or after model year 1981 with a gross vehicle weight rating of eighty-five hundred pounds or less, other than diesel powered vehicles, shall be required to take and pass a transient loaded emissions test or an onboard diagnostic check as may be required pursuant to title II of the clean air act.
   (b) Motor vehicles other than those prescribed by subdivision (a) of this paragraph and other than diesel powered vehicles shall be required to take and pass a steady state loaded test and a curb idle emissions test.
   (c) A diesel powered motor vehicle applying for registration in area A shall be required to take and pass an annual emissions test conducted at an official emissions inspection station or a fleet emissions inspection station as follows:
      (i) A loaded, transient or any other form of test as provided for in rules adopted by the director for vehicles with a gross vehicle weight rating of eight thousand five hundred pounds or less.
      (ii) A test that conforms with the society for automotive engineers standard J1667 for vehicles with a gross vehicle weight rating of more than eight thousand five hundred pounds.
   (d) Motor vehicles by specific class or model year shall be required to take and pass any of the following tests:
      (i) An evaporative system purge test.
      (ii) An evaporative system integrity test.
   (e) An onboard diagnostic check may be required pursuant to title II of the clean air act.

3. Any constant four-wheel drive vehicle shall be required to take and pass a curb idle emissions test or an onboard diagnostic check as required pursuant to title II of the clean air act.
4. Fleet operators in area B must comply with this section, except that used vehicles sold by a motor vehicle dealer who is a fleet operator and who has been issued a permit under section 49-546 shall be tested as follows:
   (a) A motor vehicle manufactured in or before the 1980 model year shall take and pass only the curb idle test, except that a diesel powered vehicle is subject to only a loaded test.
   (b) A motor vehicle manufactured in or after the 1981 model year shall take and pass the curb idle test and a twenty-five hundred revolutions per minute unloaded test.

5. Vehicles owned or operated by the United States, this state or a political subdivision of this state shall comply with this subsection without regard to whether those vehicles are required to be registered in this state, except that alternative fuel vehicles of a school district that is located in area A shall be required to take and pass the curb idle test and the loaded test.

6. Fleet operators in area A shall comply with this section, except that used vehicles sold by a motor vehicle dealer who is a fleet operator and who has been issued a permit pursuant to section 49-546 for the purposes of determining compliance with minimum emission standards in area A shall be tested as follows:
   (a) A motor vehicle manufactured in or before the 1980 model year shall take and pass the curb idle test, except that a diesel powered vehicle is subject to only a loaded test.
   (b) A motor vehicle manufactured in or after the 1981 model year shall take and pass the curb idle test and a two thousand five hundred revolutions per minute unloaded test.

7. Except for any registered owner or lessee of a fleet of less than twenty-five vehicles, a diesel powered motor vehicle with a gross vehicle weight of more than twenty-six thousand pounds and for which gross weight fees are paid pursuant to title 28, chapter 15, article 2 in area A shall not be allowed to operate in area A unless it was manufactured in or after the 1988 model year or is powered by an engine that is certified to meet or surpass emissions standards contained in 40 Code of Federal Regulations section 86.088-11 in effect on July 1, 1995. This paragraph does not apply to vehicles that are registered pursuant to title 28, chapter 7, article 7 or 8.

8. For any registered owner or lessee of a fleet of less than twenty-five vehicles, a diesel powered motor vehicle with a gross vehicle weight of more than twenty-six thousand pounds and for which gross weight fees are paid pursuant to title 28, chapter 15, article 2 in area A shall not be allowed to operate in area A unless it was manufactured in or after the 1988 model year or is powered by an engine that is certified to meet or surpass emissions standards contained in 40 Code of Federal Regulations section 86.088-11 in effect on July 1, 1995. This paragraph does not apply to vehicles that are registered pursuant to title 28, chapter 7, article 7 or 8.

G. In addition to an emissions inspection, a vehicle is subject to a tampering inspection as prescribed by rules adopted by the director if the vehicle was manufactured after the 1974 model year.
H. Vehicles required to be inspected shall undergo a functional test of the gas cap to determine if the cap holds pressure within limits prescribed by the director, except for any vehicle that is subject to an evaporative system integrity test.

I. Motor vehicles failing the initial or subsequent test are not subject to a penalty fee for late registration renewal if the original testing was accomplished before the expiration date and if the registration renewal is received by the motor vehicle division or the county assessor within thirty days after the original test.

J. The director may adopt rules for purposes of implementation, administration, regulation and enforcement of the provisions of this article including:

1. The submission of records relating to the emissions inspection of vehicles inspected by another jurisdiction in accordance with another inspection law and the acceptance of such inspection for compliance with the provisions of this article.

2. The exemption from inspection of:
   (a) Except as otherwise provided in this subdivision, a motor vehicle manufactured in or before the 1966 model year. If the United States environmental protection agency issues a vehicle emissions testing exemption for motor vehicles manufactured in or before the 1974 model year for purposes of the state implementation or maintenance plan for air quality, a motor vehicle manufactured in or before the 1974 model year is exempt from inspection.
   (b) New vehicles originally registered at the time of initial retail sale and titling in this state pursuant to section 28-2153 or 28-2154.
   (c) Vehicles registered pursuant to title 28, chapter 7, article 7 or 8.
   (d) New vehicles before the sixth registration year after initial purchase or lease.
   (e) Vehicles that are outside of this state at the time of registration, except the director by rule may require testing of those vehicles within a reasonable period of time after those vehicles return to this state.
   (f) Golf carts.
   (g) Electrically-powered vehicles.
   (h) Vehicles with an engine displacement of less than ninety cubic centimeters.
   (i) The sale of vehicles between motor vehicle dealers.
   (j) Vehicles leased to a person residing outside of area A or area B by a leasing company whose place of business is in area A or area B.
   (k) Collectible vehicles.
   (l) Motorcycles.

3. Compiling and maintaining records of emissions test results after servicing.

4. A procedure that allows the vehicle service and repair industry to compare the calibration accuracy of its emissions testing equipment with the department's calibration standards.
5. Training requirements for automotive repair personnel using emissions measuring equipment whose calibration accuracy has been compared with the department's calibration standards.

6. Any other rule that may be required to accomplish the provisions of this article.

K. The director, after consultation with automobile manufacturers and the vehicle service and repair industry, shall establish by rule a definition of "vehicle maintenance and repairs" for motor vehicles subject to inspection under this article. The definition shall specify repair procedures that, when implemented, will reduce vehicle emissions.

L. The director shall adopt rules that specify that the estimated retail cost of all recommended maintenance and repairs shall not exceed the amounts prescribed in this subsection, except that if a vehicle fails a tampering inspection there is no limit on the cost of recommended maintenance and repairs. The director shall issue a certificate of waiver for a vehicle if the director has determined that all recommended maintenance and repairs have been performed and that the vehicle has failed any reinspection that may be required by rule. If the director has determined that the vehicle is in compliance with minimum emissions standards or that all recommended maintenance and repairs for compliance with minimum emissions standards have been performed, but that tampering discovered at a tampering inspection has not been repaired, the director may issue a certificate of waiver if the owner of the vehicle provides to the director a written statement from an automobile parts or repair business that an emissions control device that is necessary to repair the tampering is not available and cannot be obtained from any usual source of supply before the vehicle's current registration expires. Rules adopted by the director for the purpose of establishing the estimated retail cost of all recommended maintenance and repairs pursuant to this subsection shall specify that:

1. In area A the cost shall not exceed:
   (a) $500 for a diesel powered vehicle with a gross weight in excess of twenty-six thousand pounds.
   (b) $500 for a diesel powered vehicle with tandem axles.
   (c) For a vehicle other than a diesel powered vehicle with a gross weight in excess of twenty-six thousand pounds and other than a diesel powered vehicle with tandem axles:
      (i) $200 for such a vehicle manufactured in or before the 1974 model year.
      (ii) $300 for such a vehicle manufactured in the 1975 through 1979 model years.
      (iii) $450 for such a vehicle manufactured in or after the 1980 model year.

2. In area B the cost shall not exceed:
   (a) $300 for a diesel powered vehicle with a gross weight in excess of twenty-six thousand pounds.
   (b) $300 for a diesel powered vehicle with tandem axles.

3. For a vehicle other than a diesel powered vehicle with a gross weight in excess of twenty-six thousand pounds and other than a diesel powered vehicle with tandem axles:
(a) $50 for such a vehicle manufactured in or before the 1974 model year.
(b) $200 for such a vehicle manufactured in the 1975 through 1979 model years.
(c) $300 for such a vehicle manufactured in or after the 1980 model year.

M. Each person whose vehicle has failed an emissions inspection shall be provided a list of those general recommended repair and maintenance procedures for vehicles that are designed to reduce vehicle emissions levels.

N. Notwithstanding any other provisions of this article, the director may adopt rules allowing exemptions from the requirement that all vehicles must meet the minimum standards for registration.

O. The director of environmental quality shall establish, in cooperation with the assistant director for the motor vehicle division of the department of transportation:

1. An adequate method for identifying bona fide residents residing outside of area A or area B to ensure that such residents are exempt from compliance with the inspection program established by this article and rules adopted under this article.

2. A written notice that shall accompany the vehicle registration application forms that are sent to vehicle owners pursuant to section 28-2151 and that shall accompany or be included as part of the vehicle emissions test results that are provided to vehicle owners at the time of the vehicle emissions test. This written notice shall describe at least the following:

   (a) The restriction of the waiver program to one time per vehicle and a brief description of the implications of this limit.

   (b) The availability and a brief description of the vehicle repair and retrofit program established pursuant to section 49-474.03 49-558.02.

   (c) Notice that many vehicles carry extended warranties for vehicle emissions systems, and those warranties are described in the vehicle's owner's manual or other literature.

   (d) A description of the catalytic converter replacement program established pursuant to section 49-474.03.

P. Notwithstanding any other law, if area A or area B is reclassified as an attainment area, emissions testing conducted pursuant to this article shall continue for vehicles registered inside that reclassified area, vehicles owned by a person who is subject to section 15-1444 or 15-1627 and vehicles registered outside of that reclassified area but used to commute to the driver's principal place of employment located within that reclassified area.

Q. A fleet operator who is issued a permit pursuant to section 49-546 may electronically transmit emissions inspection data to the department of transportation pursuant to rules adopted by the director of the department of transportation in consultation with the director of environmental quality.

R. The director shall prohibit a certificate of waiver pursuant to subsection L of this section for any vehicle that has failed inspection in area A or area B due to the catalytic converter system.
S. The director shall establish provisions for rapid testing of certain vehicles and to allow fleet operators, singly or in combination, to contract directly for vehicle emissions testing.

T. Each vehicle emissions inspection station in area A shall have a sign posted to be visible to persons who are having their vehicles tested. This sign shall state that enhanced testing procedures are a direct result of federal law.

U. The initial adoption of rules pursuant to this section shall be deemed emergency rules pursuant to section 41-1026.

V. The director of environmental quality and the director of the department of transportation shall implement a system to exchange information relating to the waiver program, including information relating to vehicle emissions test results and vehicle registration information.

W. Any person who sells a vehicle that has been issued a certificate of waiver pursuant to this section after January 1, 1997 and who knows that a certificate of waiver has been issued after January 1, 1997 for that vehicle shall disclose to the buyer before completion of the sale that a certificate of waiver has been issued for that vehicle.

X. Vehicles that fail the emissions test at emission levels higher than twice the standard established for that vehicle class by the department pursuant to section 49-447 are not eligible for a certificate of waiver pursuant to this section unless the vehicle is repaired sufficiently to achieve an emissions level below twice the standard for that class of vehicle.

Y. If an insurer notifies the department of transportation of the cancellation or nonrenewal of collectible vehicle or classic automobile insurance coverage for a collectible vehicle, the department of transportation shall cancel the registration of the vehicle and the vehicle's exemption from emissions testing pursuant to this section unless evidence of coverage is presented to the department of transportation within sixty days.

Z. For the purposes of this section, "collectible vehicle" means a vehicle that complies with both of the following:

1. Either:
   (a) Bears a model year date of original manufacture that is at least fifteen years old.
   (b) Is of unique or rare design, of limited production and an object of curiosity.

2. Meets both of the following criteria:
   (a) Is maintained primarily for use in car club activities, exhibitions, parades or other functions of public interest or for a private collection and is used only infrequently for other purposes.
   (b) Has a collectible vehicle or classic automobile insurance coverage that restricts the collectible vehicle mileage or use, or both, and requires the owner to have another vehicle for personal use.
EXPLANATION OF BLEND
SECTION 49-542

Laws 2021, Chapters 27 and 116

Laws 2021, Ch. 27, section 3
Conditionally Effective

Laws 2021, Ch. 116, section 1
Effective September 29, 2021

Explanation

Since these two enactments are compatible, the Laws 2021, Ch. 27, section 3 and Ch. 116 text changes to section 49-542 are blended in the form shown on the following pages.

Due to the conditional enactment of the Laws 2021, Ch. 27, section 3 version, section 49-542 was blended an additional time without this Ch. 27 version. That blend version will be published separately in addition to this blend.
49-542. Emissions inspection program; powers and duties of director; administration; periodic inspection; minimum standards and rules; exceptions; definition

A. The director shall administer a comprehensive annual or biennial emissions inspection program that shall require the inspection of vehicles in this state pursuant to this article and applicable administrative rules. Such inspection is required for vehicles that are registered in area A and area B, for those vehicles owned by a person who is subject to section 15-1444 or 15-1627 and for those vehicles registered outside of area A or area B but used to commute to the driver's principal place of employment located within area A or area B. Inspection in other counties of the state shall commence on the director's approval of an application by a county board of supervisors for participation in such inspection program. In all counties with a population of three hundred fifty thousand or fewer persons, except for the portion of counties that contain any portion of area A, the director shall as conditions dictate provide for testing to determine the effect of vehicle-related pollution on ambient air quality in all communities with a metropolitan area population of twenty thousand persons or more. If such testing detects the violation of state ambient air quality standards by vehicle-related pollution, the director shall forward a full report of such violation to the president of the senate, the speaker of the house of representatives and the governor.

B. The state's annual or biennial emissions inspection program shall provide for vehicle inspections at official emissions inspection stations or at fleet emissions inspection stations or may provide for remote vehicle inspection. Each official inspection station in area A shall employ at least one technical assistant who is available during the station's hours of operation to provide assistance for persons who fail the emissions test. An official or fleet emissions inspection station permit shall not be sold, assigned, transferred, conveyed or removed to another location except on such terms and conditions as the director may prescribe. The director shall establish a pilot program to provide for remote vehicle inspections in area A and area B. The director shall operate the pilot program for at least three consecutive years and shall complete the pilot program before July 1, 2025. On completion of the pilot program, the director shall submit to the joint legislative budget committee and the office of the governor a report summarizing the results of the pilot program. The director shall submit the report before the department implements any full scale remote vehicle inspection program and shall include in the report a summary of the data collected during the pilot program and a certification by the director that, based on the data collected during the pilot program, a full scale implementation of a remote vehicle inspection program will increase the efficiency and reduce the costs of the vehicle emissions inspection program.
C. Vehicles required to be inspected and registered in this state, except those provided for in section 49-546, shall be inspected, for the purpose of complying with the registration requirement pursuant to subsection D of this section, in accordance with the provisions of this article not more than ninety days before each registration expiration date. A vehicle may be submitted voluntarily for inspection more than ninety days before the registration expiration date on payment of the prescribed inspection fee. That voluntary inspection may be considered as compliance with the registration requirement pursuant to subsection D of this section only on conditions prescribed by the director.

D. A vehicle shall not be registered until such vehicle has passed the emissions inspection and the tampering inspection prescribed in subsection G of this section or has been issued a certificate of waiver. A certificate of waiver shall only be issued one time to a vehicle after January 1, 1997. If any vehicle to be registered is being sold by a dealer licensed to sell motor vehicles pursuant to title 28, the cost of any inspection and any repairs necessary to pass the inspection shall be borne by the dealer. A dealer who is licensed to sell motor vehicles pursuant to title 28 and whose place of business is located in area A or area B shall not deliver any vehicle to the retail purchaser until the vehicle passes any inspection required by this article, except if the vehicle is a collectible vehicle and the retail purchaser obtains collectible vehicle or classic automobile insurance coverage as prescribed in subsection Z of this section before delivery or the vehicle is otherwise exempt under subsection J of this section.

E. On the registration of a vehicle that has complied with the minimum emissions standards pursuant to this section or is otherwise exempt under this section, the registering officer shall issue an air quality compliance sticker to the registered owner that shall be placed on the vehicle as prescribed by rule adopted by the department of transportation or issue a modified year validating tab as prescribed by rule adopted by the department of transportation. Those persons who reside outside of area A or area B but who elect to test their vehicle or are required to test their vehicle pursuant to this section and who comply with the minimum emissions standards pursuant to this section or are otherwise exempt under this section shall remit a compliance form, as prescribed by the department of transportation, and proof of compliance issued at an official emissions inspection station to the department of transportation along with the appropriate fees. The department of transportation shall then issue the person an air quality compliance sticker that shall be placed on the vehicle as prescribed by rule adopted by the department of transportation. The registering officer or the department of transportation shall collect an air quality compliance fee of $.25. The registering officer or the department of transportation shall deposit, pursuant to sections 35-146 and 35-147, the air quality compliance fee in the state highway fund established by section 28-6991. The department of transportation shall deposit, pursuant to sections 35-146 and 35-147, any emissions inspection fee in the emissions inspection fund. The provisions of this subsection do not apply to those vehicles registered pursuant to title 28, chapter 7, article 7 or 8, the sale of vehicles between motor vehicle dealers or vehicles leased to a person residing outside of area A or area B by a leasing company whose place of business is in area A or area B.
F. The director shall adopt minimum emissions standards pursuant to section 49-447 with which the various classes of vehicles shall be required to comply as follows:

1. For the purpose of determining compliance with minimum emissions standards in area B FOR MOTOR VEHICLES OTHER THAN DIESEL POWERED VEHICLES OR CONSTANT FOUR-WHEEL DRIVE VEHICLES:

   (a) A motor vehicle manufactured in or before the 1980 model year, other than a diesel powered vehicle, shall be required to take and pass the curb idle test. A diesel powered vehicle is subject to only a loaded test. The conditioning mode, at the option of the vehicle owner or owner's agent, shall be administered only after the vehicle has passed the curb idle test. On completion of such conditioning mode, a vehicle that has failed the curb idle test may be retested in the curb idle test. If the vehicle passes such retest, it is deemed in compliance with minimum emissions standards unless the vehicle fails the tampering inspection pursuant to subsection 6 of this section.

   (b) A motor vehicle manufactured in or after the 1981 model year, other than a diesel powered vehicle, shall be required to take and pass the curb idle test and the loaded test or an onboard diagnostic check as may be required pursuant to Title II of the clean air act.

   (a) A motor vehicle that is equipped with an onboard diagnostic system required by section 202(m) of the clean air act shall be required to take and pass an onboard diagnostic test or a steady state loaded test and curb idle test as approved by the director.

   (b) A motor vehicle with a model year of 1981 or later, other than a vehicle covered by subdivision (a) of this paragraph, shall be required to take and pass a steady state loaded test and curb idle test.

   (c) A motor vehicle, other than a vehicle covered by subdivision (a) or (b) of this paragraph, shall be required to take and pass a curb idle test.

2. For the purposes of determining compliance with minimum emissions standards and functional tests in area A FOR MOTOR VEHICLES OTHER THAN DIESEL POWERED VEHICLES OR CONSTANT FOUR-WHEEL DRIVE VEHICLES:

   (a) Motor vehicles manufactured in or after model year 1981 with a gross vehicle weight rating of eighty-five hundred pounds or less, other than diesel powered vehicles, shall be required to take and pass a transient loaded emissions test or an onboard diagnostic check as may be required pursuant to Title II of the clean air act.

   (b) Motor vehicles other than those prescribed by subdivision (a) of this paragraph and other than diesel powered vehicles shall be required to take and pass a steady state loaded test and a curb idle emissions test.

   (c) A diesel powered motor vehicle applying for registration in area A shall be required to take and pass an annual emissions test conducted at an official emissions inspection station or a fleet emissions inspection station as follows:

   (i) A loaded, transient or any other form of test as provided for in rules adopted by the director for vehicles with a gross vehicle weight rating of eight thousand five hundred pounds or less.
(ii) A test that conforms with the Society for Automotive Engineers standard J1667 for vehicles with a gross vehicle weight rating of more than eight thousand five hundred pounds:

(a) A motor vehicle that is equipped with an onboard diagnostic system required by section 202(m) of the Clean Air Act shall be required to take and pass an onboard diagnostic test or a transient loaded test as approved by the director.

(b) A motor vehicle with a model year of 1981 or later, other than a vehicle covered by subdivision (a) of this paragraph, shall be required to take and pass a transient loaded test.

(c) A motor vehicle, other than a vehicle covered by subdivision (a) or (b) of this paragraph, shall be required to take and pass a steady state loaded test and curb idle test.

(d) Motor vehicles by specific class or model year shall be required to take and pass any of the following tests:

(i) An evaporative system purge test.

(ii) An evaporative system integrity test.

(e) An onboard diagnostic check may be required pursuant to title II of the Clean Air Act.

3. For the purpose of determining compliance with minimum emissions standards in area A or area B for diesel powered motor vehicles:

(a) A diesel powered motor vehicle that is equipped with an onboard diagnostic system required by section 202(m) of the Clean Air Act shall be required to take and pass an onboard diagnostic test or an opacity test as approved by the director.

(b) A diesel powered motor vehicle, other than a vehicle covered by subdivision (a) of this paragraph, shall be required to take and pass an emissions test as follows:

(i) A loaded, transient or any other form of test as provided for in rules adopted by the director for vehicles with a gross vehicle weight rating of eight thousand five hundred pounds or less.

(ii) A test that conforms with the Society for Automotive Engineers standard J1667 for vehicles with a gross vehicle weight rating of more than eight thousand five hundred pounds.

4. Any constant four-wheel drive vehicle shall be required to take and pass a curb idle emissions test or an onboard diagnostic check as required pursuant to title II of the Clean Air Act.

5. Fleet operators in area B must comply with this section, except that used vehicles, other than diesel powered vehicles, sold by a motor vehicle dealer who is a fleet operator and who has been issued a permit under section 49-546 shall be tested as follows:

(a) A motor vehicle manufactured in or before the 1980 model year of 1980 or earlier shall take and pass only the curb idle test, except that a diesel powered vehicle is subject to only a loaded test.

(b) A motor vehicle manufactured in or after the 1991 model year of 1991 or later, other than a vehicle that is equipped with an onboard diagnostic system that is required by section 202(m) of the Clean Air Act, shall take and pass the curb idle test and a twenty-five hundred revolutions per minute unloaded test.
6. Vehicles owned or operated by the United States, this state or a political subdivision of this state shall comply with this subsection without regard to whether those vehicles are required to be registered in this state, except that alternative fuel vehicles of a school district that is located in area A, OTHER THAN VEHICLES EQUIPPED WITH AN ONBOARD DIAGNOSTIC SYSTEM REQUIRED BY SECTION 202(m) OF THE CLEAN AIR ACT, shall be required to take and pass the curb idle test and the loaded test.

6. Fleet operators in area A shall comply with this section, except that used vehicles sold by a motor vehicle dealer who is a fleet operator and who has been issued a permit pursuant to section 49-540 for the purposes of determining compliance with minimum emission standards in area A shall be tested as follows:

(a) A motor vehicle manufactured in or before the 1980 model year shall take and pass the curb idle test, except that a diesel powered vehicle is subject to only a loaded test.

(b) A motor vehicle manufactured in or after the 1981 model year shall take and pass the curb idle test and a two thousand five hundred revolutions per minute unloaded test.

7. Except for any registered owner or lessee of a fleet of less than twenty-five vehicles, a diesel powered motor vehicle with a gross vehicle weight of more than twenty-six thousand pounds and for which gross weight fees are paid pursuant to title 28, chapter 15, article 2 in area A shall not be allowed to operate in area A unless it was manufactured in or after the 1986 model year or is powered by an engine that is certified to meet or surpass emissions standards contained in 40 Code of Federal Regulations section 86.088-11 in effect on July 1, 1995. This paragraph does not apply to vehicles that are registered pursuant to title 28, chapter 7, article 7 or 8.

8. For any registered owner or lessee of a fleet of less than twenty-five vehicles, a diesel powered motor vehicle with a gross vehicle weight of more than twenty-six thousand pounds and for which gross weight fees are paid pursuant to title 28, chapter 15, article 2 in area A shall not be allowed to operate in area A unless it was manufactured in or after the 1986 model year or is powered by an engine that is certified to meet or surpass emissions standards contained in 40 Code of Federal Regulations section 86.088-11 in effect on July 1, 1995. This paragraph does not apply to vehicles that are registered pursuant to title 28, chapter 7, article 7 or 8.

G. In addition to an emissions inspection, a vehicle is subject to a tampering inspection as prescribed by rules adopted by the director if the vehicle was manufactured after the 1974 model year.

H. Vehicles required to be inspected shall undergo a functional test of the gas cap to determine if the cap holds pressure within limits prescribed by the director, except for any vehicle that is subject to an evaporative system integrity test. THIS SUBSECTION DOES NOT APPLY TO ANY DIESEL POWERED VEHICLE.

I. Motor vehicles failing the initial or subsequent test are not subject to a penalty fee for late registration renewal if the original testing was accomplished before the expiration date and if the registration
renewal is received by the motor vehicle division or the county assessor within thirty days after the original test.

J. The director may adopt rules for purposes of implementation, administration, regulation and enforcement of the provisions of this article including:

1. The submission of records relating to the emissions inspection of vehicles inspected by another jurisdiction in accordance with another inspection law and the acceptance of such inspection for compliance with the provisions of this article.

2. The exemption from inspection of:
   (a) Except as otherwise provided in this subdivision, a motor vehicle manufactured in or before the 1966 model year. If the United States environmental protection agency issues a vehicle emissions testing exemption for motor vehicles manufactured in or before the 1974 model year for purposes of the state implementation or maintenance plan for air quality, a motor vehicle manufactured in or before the 1974 model year is exempt from inspection.
   (b) New vehicles originally registered at the time of initial retail sale and titling in this state pursuant to section 28-2153 or 28-2154.
   (c) Vehicles registered pursuant to title 28, chapter 7, article 7 or 8.
   (d) New vehicles before the sixth registration year after initial purchase or lease.
   (e) Vehicles that are outside of this state at the time of registration, except the director by rule may require testing of those vehicles within a reasonable period of time after those vehicles return to this state.
   (f) Golf carts.
   (g) Electrically-powered vehicles.
   (h) Vehicles with an engine displacement of less than ninety cubic centimeters.
   (i) The sale of vehicles between motor vehicle dealers.
   (j) Vehicles leased to a person residing outside of area A or area B by a leasing company whose place of business is in area A or area B.
   (k) Collectible vehicles.
   (l) Motorcycles.

(m) CRANES AND OVERSIZE VEHICLES THAT REQUIRE PERMITS PURSUANT TO SECTION 28-1100, 28-1103 OR 28-1144.
   (n) VEHICLES THAT ARE NOT IN USE AND THAT ARE OWNED BY RESIDENTS OF THIS STATE WHILE ON ACTIVE MILITARY DUTY OUTSIDE OF THIS STATE.

3. Compiling and maintaining records of emissions test results after servicing.

4. A procedure that allows the vehicle service and repair industry to compare the calibration accuracy of its emissions testing equipment with the department's calibration standards.

5. Training requirements for automotive repair personnel using emissions measuring equipment whose calibration accuracy has been compared with the department's calibration standards.

6. Any other rule that may be required to accomplish the provisions of this article.
K. The director, after consultation with automobile manufacturers and the vehicle service and repair industry, shall establish by rule a definition of "vehicle maintenance and repairs" for motor vehicles subject to inspection under this article. The definition shall specify repair procedures that, when implemented, will reduce vehicle emissions.

L. The director shall adopt rules that specify that the estimated retail cost of all recommended maintenance and repairs shall not exceed the amounts prescribed in this subsection, except that if a vehicle fails a tampering inspection there is no limit on the cost of recommended maintenance and repairs. The director shall issue a certificate of waiver for a vehicle if the director has determined that all recommended maintenance and repairs have been performed and that the vehicle has failed any reinspection that may be required by rule. If the director has determined that the vehicle is in compliance with minimum emissions standards or that all recommended maintenance and repairs for compliance with minimum emissions standards have been performed, but that tampering discovered at a tampering inspection has not been repaired, the director may issue a certificate of waiver if the owner of the vehicle provides to the director a written statement from an automobile parts or repair business that an emissions control device that is necessary to repair the tampering is not available and cannot be obtained from any usual source of supply before the vehicle's current registration expires. Rules adopted by the director for the purpose of establishing the estimated retail cost of all recommended maintenance and repairs pursuant to this subsection shall specify that:

1. In area A the cost shall not exceed:
   (a) $500 for a diesel powered vehicle with a gross weight in excess of twenty-six thousand pounds.
   (b) $500 for a diesel powered vehicle with tandem axles.
   (c) For a vehicle other than a diesel powered vehicle with a gross weight in excess of twenty-six thousand pounds and other than a diesel powered vehicle with tandem axles:
      (i) $200 for such a vehicle manufactured in or before the 1974 model year.
      (ii) $300 for such a vehicle manufactured in the 1975 through 1979 model years.
      (iii) $450 for such a vehicle manufactured in or after the 1980 model year.

2. In area B the cost shall not exceed:
   (a) $300 for a diesel powered vehicle with a gross weight in excess of twenty-six thousand pounds.
   (b) $300 for a diesel powered vehicle with tandem axles.

3. For a vehicle other than a diesel powered vehicle with a gross weight in excess of twenty-six thousand pounds and other than a diesel powered vehicle with tandem axles:
   (a) $50 for such a vehicle manufactured in or before the 1974 model year.
   (b) $200 for such a vehicle manufactured in the 1975 through 1979 model years.
   (c) $300 for such a vehicle manufactured in or after the 1980 model year.
M. Each person whose vehicle has failed an emissions inspection shall be provided a list of those general recommended repair and maintenance procedures for vehicles that are designed to reduce vehicle emissions levels.

N. Notwithstanding any other provisions of this article, the director may adopt rules allowing exemptions from the requirement that all vehicles must meet the minimum standards for registration.

O. The director of environmental quality shall establish, in cooperation with the assistant director for the motor vehicle division of the department of transportation:

1. An adequate method for identifying bona fide residents residing outside of area A or area B to ensure that such residents are exempt from compliance with the inspection program established by this article and rules adopted under this article.

2. A written notice that shall accompany the vehicle registration application forms that are sent to vehicle owners pursuant to section 28-2151 and that shall accompany or be included as part of the vehicle emissions test results that are provided to vehicle owners at the time of the vehicle emissions test. This written notice shall describe at least the following:

   (a) The restriction of the waiver program to one time per vehicle and a brief description of the implications of this limit.

   (b) The availability and a brief description of the vehicle repair and retrofit program established pursuant to section 49-558.02.

   (c) Notice that many vehicles carry extended warranties for vehicle emissions systems, and those warranties are described in the vehicle's owner's manual or other literature.

P. Notwithstanding any other law, if area A or area B is reclassified as an attainment area, emissions testing conducted pursuant to this article shall continue for vehicles registered inside that reclassified area, vehicles owned by a person who is subject to section 15-1444 or 15-1627 and vehicles registered outside of that reclassified area but used to commute to the driver's principal place of employment located within that reclassified area.

Q. A fleet operator who is issued a permit pursuant to section 49-546 may electronically transmit emissions inspection data to the department of transportation pursuant to rules adopted by the director of the department of transportation in consultation with the director of environmental quality.

R. The director shall prohibit a certificate of waiver pursuant to subsection L of this section for any vehicle that has failed inspection in area A or area B due to the catalytic converter system.

S. The director shall establish provisions for rapid testing of certain vehicles and to allow fleet operators, singly or in combination, to contract directly for vehicle emissions testing.

T. Each vehicle emissions inspection station in area A shall have a sign posted to be visible to persons who are having their vehicles tested. This sign shall state that enhanced testing procedures are a direct result of federal law.

U. The initial adoption of rules pursuant to this section shall be deemed emergency rules pursuant to section 41-1026.
V. The director of environmental quality and the director of the department of transportation shall implement a system to exchange information relating to the waiver program, including information relating to vehicle emissions test results and vehicle registration information.

W. Any person who sells a vehicle that has been issued a certificate of waiver pursuant to this section after January 1, 1997 and who knows that a certificate of waiver has been issued after January 1, 1997 for that vehicle shall disclose to the buyer before completion of the sale that a certificate of waiver has been issued for that vehicle.

X. Vehicles that fail the emissions test at emission levels higher than twice the standard established for that vehicle class by the department pursuant to section 49-447 are not eligible for a certificate of waiver pursuant to this section unless the vehicle is repaired sufficiently to achieve an emissions level below twice the standard for that class of vehicle.

Y. If an insurer notifies the department of transportation of the cancellation or nonrenewal of collectible vehicle or classic automobile insurance coverage for a collectible vehicle, the department of transportation shall cancel the registration of the vehicle and the vehicle's exemption from emissions testing pursuant to this section unless evidence of coverage is presented to the department of transportation within sixty days.

Z. For the purposes of this section, "collectible vehicle" means a vehicle that complies with both of the following:

1. Either:
   (a) Bears a model year date of original manufacture that is at least fifteen years old.
   (b) Is of unique or rare design, of limited production and an object of curiosity.

2. Meets both of the following criteria:
   (a) Is maintained primarily for use in car club activities, exhibitions, parades or other functions of public interest or for a private collection and is used only infrequently for other purposes.
   (b) Has a collectible vehicle or classic automobile insurance coverage that restricts the collectible vehicle mileage or use, or both, and requires the owner to have another vehicle for personal use.
EXPLANATION OF BLEND
SECTION 49-701

Laws 2021, Chapters 277 and 325

Laws 2021, Ch. 277, section 1 Effective September 29, 2021
Laws 2021, Ch. 325, section 30 Effective September 29, 2021

Explanation

Since these two enactments are compatible, the Laws 2021, Ch. 277 and Ch. 325 text changes to section 49-701 are blended in the form shown on the following pages.
49-701. Definitions

In this chapter, unless the context otherwise requires:

1. "Administratively complete plan" means an application for a solid waste facility plan approval that the department has determined contains each of the components required by statute or rule but that has not undergone technical review or public notice by the department.

2. "Administrator" means the administrator of the United States environmental protection agency.

3. "ADVANCED RECYCLING":
   (a) MEANS A MANUFACTURING PROCESS FOR THE CONVERSION OF POST-USE POLYMERS AND RECOVERED FEEDSTOCKS INTO BASIC HYDROCARBON RAW MATERIALS, FEEDSTOCKS, CHEMICALS, MONOMERS, Oligomers, Plastics, Plastics AND CHEMICAL FEEDSTOCKS, BASIC AND UNFINISHED CHEMICALS, CRUDE OIL, NAPHTHA, LIQUID TRANSPORTATION FUELS AND COATINGS AND OTHER PRODUCTS SUCH AS WAXES AND LUBRICANTS THROUGH PROCESSES THAT INCLUDE PYROLYSIS, GASIFICATION, DEPOLYMERIZATION, CATALYTIC CRACKING, REFORMING, HYDROGENATION, SOLVOLYSIS AND OTHER SIMILAR TECHNOLOGIES.
   (b) DOES NOT INCLUDE SOLID WASTE MANAGEMENT OR PROCESSING, INCINERATION OR TREATMENT.

4. "ADVANCED RECYCLING FACILITY":
   (a) MEANS A FACILITY THAT RECEIVES, STORES AND CONVERTS POST-USE POLYMERS AND RECOVERED FEEDSTOCKS USING ADVANCED RECYCLING.
   (b) INCLUDES A MANUFACTURING FACILITY THAT IS SUBJECT TO APPLICABLE PROVISIONS OF LAW AND DEPARTMENT RULES FOR AIR QUALITY, WATER QUALITY AND WASTE AND LAND USE.
   (c) DOES NOT INCLUDE A SOLID WASTE FACILITY, PROCESSING FACILITY, TREATMENT FACILITY, MATERIALS RECOVERY FACILITY, RECYCLING FACILITY OR INCINERATOR.

5. "Closed solid waste facility" means any of the following:
   (a) A solid waste facility that ceases storing, treating, processing or receiving for disposal solid waste before the effective date of design and operation rules for that type of facility adopted pursuant to section 49-761.
   (b) A public solid waste landfill that meets any of the following criteria:
      (i) Ceased receiving solid waste prior to BEFORE July 1, 1983.
      (ii) Ceased receiving solid waste and received at least two feet of cover material prior to BEFORE January 1, 1986.
      (iii) Received approval for closure from the department.
   (c) A public composting plant or a public incinerating facility that closed in accordance with an approved plan.

6. "Conditionally exempt small quantity generator waste" means hazardous waste in quantities as defined by rules adopted pursuant to section 49-922.

7. "Construction debris" means solid waste derived from the construction, repair or remodeling of buildings or other structures.
8. "County" means:
   (a) The board of supervisors in the context of the exercise of
ew powers or duties.
   (b) The unincorporated areas in the context of area of
jurisdiction.
9. "Demolition debris" means solid waste derived from the
demolition of buildings or other structures.
10. "DEPOLYMERIZATION" MEANS A MANUFACTURING PROCESS THROUGH
     WHICH POST-USE POLYMERS ARE BROKEN INTO SMALLER MOLECULES SUCH AS
     MONOMERS AND Oligomers OR RAW, INTERMEDIATE OR FINAL PRODUCTS, PLASTICS
     AND CHEMICAL FEEDSTOCKS, BASIC AND UNFINISHED CHEMICALS, CRUDE OIL,
     NAPHTHA, LIQUID TRANSPORTATION FUELS, WAXES, LUBRICANTS, COATINGS AND
     OTHER BASIC HYDROCARBONS.
11. "Discharge" has the same meaning prescribed in section
    49-201.
12. "Existing solid waste facility" means a solid waste
    facility that begins construction or is in operation on the effective
    date of the design and operation rules adopted by the director pursuant
    to section 49-761 for that type of solid waste facility.
13. "Facility plan" means any design or operating plan for a
    solid waste facility or group of solid waste facilities.
    part 257 in effect on May 1, 2004.
    part 258 in effect on May 1, 2004.
16. "GASIFICATION" MEANS A MANUFACTURING PROCESS THROUGH WHICH
    RECOVERED FEEDSTOCKS ARE HEATED AND CONVERTED INTO A FUEL AND GAS MIXTURE
    IN AN OXYGEN-DEFICIENT ATMOSPHERE AND THE MIXTURE IS CONVERTED INTO
    VALUABLE RAW, INTERMEDIATE AND FINAL PRODUCTS, INCLUDING PLASTIC
    MONOMERS, CHEMICALS, WAXES, LUBRICANTS, CHEMICAL FEEDSTOCKS, CRUDE OIL,
    DIESEL, GASOLINE, DIESEL AND GASOLINE BLENDSTOCKS, HOME HEATING OIL AND
    OTHER FUELS, INCLUDING ETHANOL AND TRANSPORTATION FUEL, THAT ARE RETURNED
    TO ECONOMIC UTILITY IN THE FORM OF RAW MATERIALS, PRODUCTS OR FUELS.
17. "Household hazardous waste" means solid waste as
    described in 40 Code of Federal Regulations section 261.4(b)(1) as
    incorporated by reference in the rules adopted pursuant to chapter 5 of
    this title.
18. "Household waste"[]:
   (a) Means any solid waste[,] including garbage, rubbish and
sanitary waste from septic tanks[,] that is generated from households[,]  
including single and [multiple family
MULTIPLE-FAMILY] residences,
hotels and motels, bunkhouses, ranger stations, crew quarters,
campgrounds, picnic grounds and day use recreation areas[,]  
including
(b) DOES NOT INCLUDE construction debris, landscaping rubble or
demolition debris.
19. "Inert material":
   (a) Means material that satisfies all of the following
conditions:
      (i) Is not flammable.
(ii) Will not decompose.

(iii) Will not leach substances in concentrations that exceed applicable aquifer water quality standards prescribed by section 49-201, paragraph 29-22 when subjected to a water leach test that is designed to approximate natural infiltrating waters.

(b) Includes concrete, asphaltic pavement, brick, rock, gravel, sand, soil and metal, if used as reinforcement in concrete, but does not include special waste, hazardous waste, glass or other metal.

20. "Land disposal" means placement of solid waste in or on land.

21. "Landscaping rubble" means material that is derived from landscaping or reclamation activities and that may contain inert material and no more than ten percent by volume of vegetative waste.

22. "Management agency" means any person responsible for the day-to-day operation, maintenance and management of a particular public facility or group of public facilities.

23. "Medical waste":

(a) Means any solid waste that is generated in the diagnosis, treatment or immunization of a human being or animal or in any research relating to that diagnosis, treatment or immunization, or in the production or testing of biologicals.

(b) Includes discarded drugs, but does not include hazardous waste as defined in section 49-921.

24. "Municipal solid waste landfill" means any solid waste landfill that accepts household waste, household hazardous waste or conditionally exempt small quantity generator waste.

25. "New solid waste facility" means a solid waste facility that begins construction or operation after the effective date of design and operating rules that are adopted pursuant to section 49-761 for that type of solid waste facility.

26. "On site" means the same or geographically contiguous property that may be divided by public or private right-of-way if the entrance and exit between the properties are at a crossroad intersection and access is by crossing the right-of-way and not by traveling along the right-of-way. Noncontiguous properties that are owned by the same person and connected by a right-of-way that is controlled by that person and to which the public does not have access are deemed on site property. Noncontiguous properties that are owned or operated by the same person regardless of right-of-way control are also deemed on site property.

27. "Person" means any public or private corporation, company, partnership, firm, association or society of persons, the federal government and any of its departments or agencies, this state or any of its agencies, departments, political subdivisions, counties, towns or municipal corporations, as well as a natural person.

28. "POST-USE POLYMER":

(a) MEANS A PLASTIC TO WHICH ALL OF THE FOLLOWING APPLY:

(i) THE PLASTIC IS DERIVED FROM ANY INDUSTRIAL, COMMERCIAL, AGRICULTURAL OR DOMESTIC ACTIVITIES.
(ii) The plastic is not mixed with solid waste or hazardous waste on site or during processing at the advanced recycling facility.

(iii) The plastic's use or intended use is as a feedstock for the manufacturing of crude oil, fuels, feedstocks, blendstocks, raw materials or other intermediate products or final products using advanced recycling.

(iv) The plastic has been sorted from solid waste and other regulated waste but may contain residual amounts of solid waste such as organic material and incidental contaminants or impurities such as paper labels and metal rings.

(v) The plastic is processed at an advanced recycling facility or held at such facility before processing.

(b) Does not include solid waste or municipal waste.

\[24\] 29. "Process" or "processing" means the reduction, separation, recovery, conversion or recycling of solid waste.

\[25\] 30. "Public solid waste facility" means a transfer facility and any site owned, operated or utilized used by any person for the storage, processing, treatment or disposal of solid waste that is not generated on site.

31. "Pyrolysis" means a manufacturing process through which post-use polymers are heated in the absence of oxygen until melted, are thermally decomposed and are then cooled, condensed and converted into valuable raw, intermediate and final products, including plastic monomers, chemicals, waxes, lubricants, chemical feedstocks, crude oil, diesel, gasoline, diesel and gasoline blendstocks, home heating oil and other fuels, including ethanol and transportation fuel, that are returned to economic utility in the form of raw materials, products or fuels.

32. "Recovered feedstocks":

(a) means one or more of the following materials that has been processed so that it may be used as feedstock in an advanced recycling facility:

(i) Post-use polymers.

(ii) Materials for which the United States Environmental Protection Agency has made a non-waste determination pursuant to 40 Code of Federal Regulations section 241.3(c) or has otherwise determined are feedstocks and not solid waste.

(b) Does not include:

(i) Unprocessed municipal solid waste.

(ii) Materials that are mixed with solid waste or hazardous waste on site or during processing at an advanced recycling facility.

\[26\] 33. "Recycling facility" means a solid waste facility that is owned, operated or used for the storage, treatment or processing of recyclable solid waste and that handles wastes that have a significant adverse effect on the environment.

\[27\] 34. "Salvaging" means the removal of solid waste from a solid waste facility with the permission and in accordance with rules or ordinances of the management agency for purposes of productive reuse.

\[28\] 35. "Scavenging" means the unauthorized removal of solid waste from a solid waste facility.
"Solid waste facility" means a transfer facility and any site owned, operated or utilized by any person for the storage, processing, treatment or disposal of solid waste, conditionally exempt small quantity generator waste or household hazardous waste but does not include the following:

(a) A site at which less than one ton of solid waste that is not household waste, household hazardous waste, conditionally exempt small quantity generator waste, medical waste or special waste and that was generated on site is stored, processed, treated or disposed in compliance with section 49-762.07, subsection F.

(b) A site at which solid waste that was generated on site is stored for ninety days or less.

(c) A site at which nonputrescible solid waste that was generated on site in amounts of less than one thousand kilograms per month per type of nonputrescible solid waste is stored and contained for one hundred eighty days or less.

(d) A site that stores, treats or processes paper, glass, wood, cardboard, household textiles, scrap metal, plastic, vegetative waste, aluminum, steel or other recyclable material and that is not a waste tire facility, a transfer facility or a recycling facility.

(e) A site where sludge from a wastewater treatment facility is applied to the land as a fertilizer or beneficial soil amendment in accordance with sludge application requirements.

(f) A closed solid waste facility.

(g) A solid waste landfill that is performing or has completed postclosure care before July 1, 1996 in accordance with an approved postclosure plan.

(h) A closed solid waste landfill performing a one-time removal of solid waste from the closed solid waste landfill, if the operator provides a written notice that describes the removal project to the department within thirty days after completion of the removal project.

(i) A site where solid waste generated in street sweeping activities is stored, processed or treated prior to disposal at a solid waste facility authorized under this chapter.

(j) A site where solid waste generated at either a drinking water treatment facility or a wastewater treatment facility is stored, processed, or treated on site prior to disposal at a solid waste facility authorized under this chapter, and any discharge is regulated pursuant to chapter 2, article 3 of this title.

(k) A closed solid waste landfill where development activities occur on the property or where excavation or removal of solid waste is performed for maintenance and repair if the following conditions are met:

(i) When the project is completed there will not be an increase in leachate that would result in a discharge.

(ii) When the project is completed the concentration of methane gas will not exceed twenty-five percent (25%) of the lower explosive limit in on-site structures, or the concentration of methane gas will not exceed the lower explosive limit at the property line.
(iii) Protection has been provided to prevent remaining waste from causing any vector, odor, litter or other environmental nuisance.

(iv) The operator provides a notice to the department containing the information required by section 49-762.07, subsection A, paragraphs 1, 2 and 5 and a brief description of the project.

(1) Agricultural on-site disposal as provided in section 49-766.

(m) The use, storage, treatment or disposal of by-products of regulated agricultural activities as defined in section 49-201 and that are subject to best management practices pursuant to section 49-247 or by-products of livestock, range livestock and poultry as defined in section 3-1201, pesticide containers that are regulated pursuant to title 3, chapter 2, article 6 or other agricultural crop residues.

(n) Household hazardous waste collection events held at a temporary site for not more than six days in any calendar quarter.

(o) Wastewater treatment facilities as defined in section 49-1201.

(p) An on-site single-family SINGLE-FAMILY household waste composting facility.

(q) A site at which five hundred or fewer waste tires are stored.

(r) A site at which mining industry off-road waste tires are stored or are disposed of as prescribed by rules in effect on February 1, 1996, until the director by rule determines that on-site recycling methods exist that are technically feasible and economically practical.

(s) A site at which underground piping, conduit, pipe covering or similar structures are abandoned in place in accordance with applicable state and federal laws.

(t) AN ADVANCED RECYCLING FACILITY THAT CONVERTS RECOVERED FEEDSTOCKS TO MANUFACTURE RAW MATERIALS AND INTERMEDIATE AND FINAL PRODUCTS.

§ 37. "Solid waste landfill"[;]

(a) Means a facility, area of land or excavation in which solid wastes are placed for permanent disposal. Solid waste landfill

(b) Does not include a land application unit, surface impoundment, injection well, compost pile or waste pile or an area containing ash from the on-site combustion of coal that does not contain household waste, household hazardous waste or conditionally exempt small quantity generator waste.

§ 38. "Solid waste management" means the systematic administration of activities [which THAT] provide for the collection, source separation, storage, transportation, transfer, processing, treatment or disposal of solid waste in a manner that protects public health and safety and the environment and prevents and abates environmental nuisances.

§ 39. "Solid waste management plan" means the plan [which THAT] is adopted pursuant to section 49-721 and [which THAT] provides guidelines for the collection, source separation, storage, transportation, processing, treatment, reclamation and disposal of solid waste in a manner that protects public health and safety and the environment and prevents and abates environmental nuisances.
40. "SOLVOLYSIS":
(a) MEANS A MANUFACTURING PROCESS THROUGH WHICH POST-USE POLYMERS ARE PURIFIED WITH THE AID OF SOLVENTS, ALLOWING ADDITIVES AND CONTAMINANTS TO BE REMOVED AND PRODUCING POLYMERS CAPABLE OF BEING RECYCLED OR REUSED WITHOUT FIRST BEING REVERTED TO A MONOMER.
(b) INCLUDES HYDROLYSIS, AMINOLYSIS, AMMONOLYSIS, METHANOLYSIS AND GLYCOLYSIS.

357 41. "Storage" means the holding of solid waste.
357 42. "Transfer facility":
(a) Means a site that is owned, operated or used by any person for the rehandling or storage for ninety days or less of solid waste that was generated off site for the primary purpose of transporting that solid waste.
(b) Includes those facilities that include significant solid waste transfer activities that warrant the facility's regulation as a transfer facility.

357 43. "Treatment" means any method, technique or process used to change the physical, chemical or biological character of solid waste so as to render that waste safer for transport, amenable for processing, amenable for storage or reduced in volume.

357 44. "Vegetative waste":
(a) Means waste derived from plants, including tree limbs and branches, stumps, grass clippings and other waste plant material.
(b) Does not include processed lumber, paper, cardboard and other manufactured products that are derived from plant material.

357 45. "Waste pile" means any noncontainerized accumulation of solid, nonflowing waste that is used for treatment or storage.

357 46. "Waste tire" does not include tires used for agricultural purposes as bumpers on agricultural equipment or as ballast to maintain covers at an agricultural site, or any tire disposed of using any of the methods in section 44-1304, subsection D, paragraphs 1, 2, 3, 5 through 8 and 11 and means any of the following:
(a) A tire that is no longer suitable for its original intended purpose because of wear, damage or defect.
(b) A tire that is removed from a motor vehicle and is retained for further use.
(c) A tire that has been chopped or shredded.

357 47. "Waste tire facility" means a solid waste facility at which five thousand or more waste tires are stored outdoors on any day.
EXPLANATION OF BLEND
SECTION 49-1009

Laws 2021, Chapters 37 and 440

Laws 2021, Ch. 37, section 1  Effective September 29, 2021
Laws 2021, Ch. 440, section 1  Effective September 29, 2021

Explanation

Since the Ch. 440 version includes all of the changes made by the Ch. 37 version, the Laws 2021, Ch. 440 amendment of section 49-1009 is the blend of both the Laws 2021, Ch. 37 and Ch. 440 versions.
49-1009. Tank performance standards

A. A person shall not install an underground storage tank unless the underground storage tank meets all of the following requirements:

1. It is designed to prevent releases due to corrosion or structural failure for the operational life of the tank.

2. It is cathodically protected against corrosion, constructed of noncorrosive material, steel clad with a noncorrosive material or designed in a manner to prevent the release of a regulated substance.

3. The material used in the construction or lining of the tank is compatible with the substance to be stored.

B. Beginning January 1, 2009. A person shall not install an underground storage tank unless the underground storage tank meets the secondary containment PERFORMANCE STANDARDS FOR NEW UNDERGROUND STORAGE TANK SYSTEMS PRESCRIBED IN 40 CODE OF FEDERAL REGULATIONS SECTION 280.20 AS IN EFFECT ON JANUARY 1, 2020 and release detection requirements for hazardous substance underground storage tank systems in 40 Code of Federal Regulations section 280.42 and the interstitial monitoring requirements [PRESCRIBED] in 40 Code of Federal Regulations section 280.43, subsection 6 280.43(g) AS IN EFFECT ON JANUARY 1, 2020.

C. Beginning January 1, 2009. A person shall not install a new piping component that is twenty-five percent FIFTY PERCENT or more of the total linear footage of all connected piping of the underground storage tank unless all connected piping of the underground storage tank that conveys a regulated substance under pressure is brought into compliance with the secondary containment PERFORMANCE STANDARDS FOR NEW UNDERGROUND STORAGE TANK SYSTEMS PRESCRIBED IN 40 CODE OF FEDERAL REGULATIONS SECTION 280.20 AS IN EFFECT ON JANUARY 1, 2020 and release detection requirements for hazardous substance underground storage tank systems in 40 Code of Federal Regulations section 280.42 and the interstitial monitoring requirements [PRESCRIBED] in 40 Code of Federal Regulations section 280.43, subsection 6 280.43(g) AS IN EFFECT ON JANUARY 1, 2020.

D. Beginning January 1, 2009. An owner or operator who installs or replaces a motor fuel dispenser SYSTEM that connects to an underground storage tank shall install under-dispenser containment. The under-dispenser containment shall meet the release detection requirements of 40 Code of Federal Regulations section 280.42, subsection B, paragraph 1 PERFORMANCE STANDARDS FOR NEW UNDERGROUND STORAGE TANK SYSTEMS PRESCRIBED IN 40 CODE OF FEDERAL REGULATIONS SECTION 280.20(f) AS IN EFFECT ON JANUARY 1, 2020.

E. The owner and operator of an underground storage tank shall use an underground storage tank, a new piping component, under-dispenser containment and any secondary containment material that is made of or
lined with materials that are compatible with the regulated substance stored in or dispensed from the underground storage tank.

F. The director may adopt rules specifying design, construction, installation, performance and compatibility standards for underground storage tanks. The rules adopted pursuant to this subsection shall be consistent with and not more stringent than federal regulations in effect on the date on which the rules are adopted.

G. The director may require an owner and operator of an underground storage tank to perform or cause to be performed a tank test to determine compliance with the standards established pursuant to this section.
EXPLANATION OF BLEND
SECTION 49-1273

Laws 2021, Chapters 262 and 407

Laws 2021, Ch. 262, section 2  Effective September 29, 2021
Laws 2021, Ch. 407, section 6  Effective September 29, 2021

Explanation

Since these two enactments are compatible, the Laws 2021, Ch. 262 and Ch. 407 text changes to section 49-1273 are blended in the form shown on the following pages.

The Laws 2021, Ch. 262 version of section 49-1273, subsection A, paragraph 2 struck "one hundred thousand dollars" and inserted "$250,000". The Ch. 407 version made a technical change in subsection A, paragraph 2. Since this would not produce a substantive change, the blend version reflects the Ch. 262 version.
BLENDF OF SECTION 49-1273
Laws 2021, Chapters 262 and 407

49-1273. Water supply development revolving fund; purposes; limitation

A. Monies in the water supply development revolving fund may be used for the following purposes:

1. Making water supply development loans to water providers in this state under section 49-1274 for water supply development purposes.

2. Making loans or grants to water providers for the planning or design of designing water supply development projects. A single grant shall not exceed [one hundred thousand dollars] $250,000.

3. Purchasing or refinancing debt obligations of water providers at or below market rate if the debt obligation was issued for a water supply development purpose.

4. Providing financial assistance to water providers with bonding authority to purchase insurance for local bond obligations incurred by them for water supply development purposes.

5. Paying the costs to administer the fund.

6. Providing linked deposit guarantees through third-party lenders by depositing monies with the lender on the condition that the lender make a loan on terms approved by the committee, at a rate of return on the deposit approved by the committee and the state treasurer and by giving the lender recourse against the deposit of loan repayments that are not made when due.

7. CONDUCTING WATER SUPPLY STUDIES.

B. If the monies pledged to secure water supply development bonds issued pursuant to section 49-1278 become insufficient to pay the principal and interest on the water supply development bonds guaranteed by the water supply development revolving fund, the authority shall direct the state treasurer to liquidate securities in the fund as may be necessary and shall apply those proceeds to make current all payments then due on the bonds. The state treasurer shall immediately notify the attorney general and auditor general of the insufficiency. The auditor general shall audit the circumstances surrounding the depletion of the fund and report the findings to the attorney general. The attorney general shall conduct an investigation and report those findings to the governor and the legislature.

C. Monies in the water supply development revolving fund shall not be used to provide financial assistance to a water provider, other than an Indian tribe, unless one of the following applies:

1. The board of supervisors of the county in which the water provider is located has adopted the provision authorized by section 11-823, subsection A.

2. The water provider is located in a city or town and the legislative body of the city or town has enacted the ordinance authorized by section 9-463.01, subsection 0.
3. The water provider is located in an active management area established pursuant to title 45, chapter 2, article 2.

4. The water provider is located outside of an active management area and either of the following applies:
   (a) The director of water resources has designated the water provider as having an adequate water supply pursuant to section 45-108.
   (b) The water provider will use the financial assistance for a water supply development project and the director of water resources has determined pursuant to section 45-108 that there is an adequate water supply for all subdivided land that will be served by the project and for which a public report was issued after the effective date of this amendment to this section JULY 24, 2014.

5. THE WATER PROVIDER IS LOCATED IN A COUNTY WITH A POPULATION OF LESS THAN ONE MILLION FIVE HUNDRED THOUSAND PERSONS.